

**GLOUCESTER CITY COUNCIL CALENDAR OF BUSINESS**  
**TUESDAY, JANUARY 22, 2008**  
**7 P.M.**  
**KYROUZ AUDITORIUM, CITY HALL**  
**COUNCIL MEETING #2008-003**

**FLAG SALUTE & MOMENT OF SILENCE**  
**ORAL COMMUNICATIONS**  
**COUNCILLOR'S REQUESTS TO THE MAYOR**

**CONSENT AGENDA**

- |  | <b><u>ACTION</u></b>   |
|--|------------------------|
| • <b>MAYOR'S REPORT</b>  |                        |
| 1. Copy of letter from Dept. of Revenue dated 01/10/2008   | <i>(Refer B&amp;F)</i> |
| 2. Copy of City of Gloucester Financial Statements as of 06/30/2006  | <i>(Refer B&amp;F)</i> |
| 3. Special Budgetary Request for Shellfish Control   | <i>(Refer B&amp;F)</i> |
| 4. Request from IS Director to pay an invoice from FY2007  | <i>(Refer B&amp;F)</i> |
| 5. Request from Harbormaster to establish an account   | <i>(Refer B&amp;F)</i> |
| 6. Request from Harbormaster requesting to accept a grant  | <i>(Refer B&amp;F)</i> |
| 7. Request from Harbormaster requesting to accept a grant  | <i>(Refer B&amp;F)</i> |
| 8. Memo from DPW Director requesting to accept a grant   | <i>(Refer B&amp;F)</i> |
| 9. Memo from City Auditor "Duties When Appropriations Are Exhausted"   | <i>(Refer B&amp;F)</i> |
| • <b>INFORMATION ONLY</b>  |                        |
| 1. Response to City Council Request #07-260  | <i>(File)</i>          |
| 2. Memo and Press release from Fire Chief  | <i>(File)</i>          |
| 3. Assessor's Department Quarterly Report  | <i>(File)</i>          |
| • <b>APPROVAL OF MINUTES</b>   |                        |
| 1. City Council Meeting: 01/08/2008  | <i>(Approve/File)</i>  |
| • <b>APPLICATIONS/PETITIONS</b>  |                        |
| 1. <b>RZ2008-001</b> - Rear 82 Bass Avenue: R-3 to EB  | <i>(Refer P&amp;D)</i> |
| • <b>COMMUNICATIONS</b>  |                        |
| 1. <b>COM2008-001</b> -Memo from Superintendent of Schools to Office of Educational Quality & Accountability | <i>(File)</i>          |
| 2. <b>COM2008-002</b> - Memo from Attorney Faherty requesting a Sewer Line Acceptance                        | <i>(Refer P&amp;D)</i> |
| • <b>ORDERS</b>  |                        |
| 1. <b>CC2008-007</b> Review of Plans and permits issued to Carter Hill Assoc.                                | <i>(Refer P&amp;D)</i> |

**FOR COUNCIL VOTE**

- |   |              | <b><u>ACTION</u></b> |
|---|--------------|----------------------|
| 1. FCV2008-002: Record opposition to changes in Open Meeting Law  | <i>Tobey</i> | <i>Adopt</i>         |
| 2. FCV2008-003: Scheduling of February 2008 City Council meetings | <i>Tobey</i> | <i>Adopt</i>         |
| 3. FCV2008-004: Designation of City Poet Laureate                 | <i>Foote</i> | <i>Adopt</i>         |
| 4. FCV2008-005: Warrant for Presidential Primary 02/05/2008       |              | <i>Adopt</i>         |

**SCHEDULED PUBLIC HEARINGS**

- |   | <b><u>ACTION</u></b>             |
|---|----------------------------------|
| <b>08-007: Rules and Regulations pertaining to the Acceptance of Private Sewers</b><br>Chapter 23, Utilities, Section 23-24(a) (1) Sewer Betterment Assessments | <i>Continued from 01/08/2008</i> |
| <b>08-009: Loan Order 08-03: \$2,055,510 for Sewer Construction</b>   | <i>Continued from 12/11/2007</i> |
| <b>08-003: SCP #2007-24: 91 Riverview Road: Lowlands permit 5.5.4</b>   | <i>Continue until 03/18/2008</i> |
| <b>08-004: SCP #2007-23: 71, 73, 79 Concord Street: Major Project, Shopping Center</b>  | <i>Continue until 03/18/2008</i> |
| <b>08-005: Council Order 2007-44: Amend 22-284 Rogers Street</b>  | <i>Continue until 02/12/2008</i> |
| <b>08-006: SCP #2007-25: 33 Emerson Avenue: 5.22 Wind Turbine</b>   | <i>Continue until 03/18/2008</i> |
| <b>08-008: Council Order 2007-40: Amend 22-159, 22-291 Davis and Chapel Street</b>  | <i>Continue until 02/12/2008</i> |

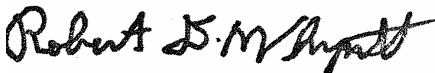
**COMMITTEE REPORTS**

1. B&F: 01/08/2008
2. P&D: 01/08/2008
3. P&D: 01/16/2008
4. B&F: 01/17/2008

*Under Separate Cover*

**COUNCILLOR'S REQUESTS OTHER THAN TO THE MAYOR**

**ROLL CALL** - Councillor Steven Curcuru



Robert D. Whynott, City Clerk

**NEXT REGULAR CITY COUNCIL MEETING, TUESDAY, FEBRUARY 12, 2008**

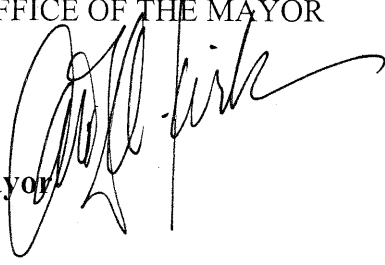
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ckirk@ci.gloucester.ma.us

**CITY OF GLOUCESTER**  
OFFICE OF THE MAYOR

**TO:** City Council

**FROM:** Carolyn A. Kirk, Mayor 

**DATE:** January 9, 2008

**RE:** Mayor's Report for the January 22, 2008 City Council Meeting

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Dear Councilors:

Allow me to once again thank you for the difficult vote you took to fund the expansion of the elementary schools. We are all anxious to get some stability in the city, and concluding the two-year implementation plan for our k-5 schools goes a long way towards reaching that goal.

Regarding financial stability for the City of Gloucester, I bring two documents to your attention:

- Letter from the Department of Revenue dated 1/10/08.
- Management letter from the city's auditing firm, Giusti, Hingston and Company dated 12/7/07.

Both letters raise serious questions about the fiscal practices of the City of Gloucester. It is imperative that the Administration and the City Council are on the same page about the approach that will be taken to implement corrective action, and the priority given to the many items that need improvement. It would be unproductive to have the Administration go in one direction, and the Council through the Auditor move in another. My immediate goal is to fulfill the requirements outlined by the Department of Revenue so that our tax rate certification is not jeopardized. As such, my emphasis will be on tackling the items in the DOR letter dated 1/10/08. Many of the items outlined in the Management letter pertain to the same things the DOR discussed, but not all.

My approach is for the Finance Team, which is comprised of both Administrative staff as well as the City Council-appointed Auditor, to put together the plan as requested by the DOR. I have requested a meeting here in Gloucester with the DOR for next week to offer our assurances that the City of Gloucester is working together to correct the deficiencies.

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CITY OF GLOUCESTER  
OFFICE OF THE MAYOR

I will keep the Council informed of the progress being made as the weeks unfold. No one is more anxious than me to get the fiscal house in order so that we have a firm foundation from which to make policy and budget decisions going forward.

Meanwhile, business continues along many fronts. Below you will find a number of additional Enclosures for your consideration.

**Enclosure 1** is a copy of the letter from the Department of Revenue dated January 10, 2008. *Please refer this matter to the Budget and Finance subcommittee for review along side the Management letter dated December 7, 2007 from the auditing firm.*

**Enclosure 2** is a copy of the City of Gloucester Financial Statements as of June 30, 2006. *Please refer this matter to the Budget and Finance subcommittee for review.* Anna Tenaglia, Chief Financial Officer, and Barry Boyce, Acting City Auditor, will be available to answer questions and provide further information as required.

**Enclosure 3** is a Special Budgetary Transfer Request for Shellfish Control. The transfer is necessary to provide funding for a STEP increase for the Assistant Shellfish Constable which was not included in the FY 2008 budget. *Please refer this matter to the Budget and Finance subcommittee for review and approval.* Gregg Cademartori, or his designee, will be available to answer questions and provide further information as required.

**Enclosure 4** is a request from Mike Wells, Director of Information Services, to pay a Unifund invoice which contains charges from FY2007. *Please refer this matter to the Budget and Finance subcommittee for review and approval.* Mike Wells will be available to answer questions and provide further information as required.

**Enclosure 5** is a request from Harbormaster Jim Caulkett and the Waterways Board to authorize the City Auditor to create a new account for deposit of \$1,000.00 from the sale of the spare Harbormaster motor. *Please refer this matter to the Budget and Finance subcommittee for review and approval.* Harbormaster Jim Caulkett will be available to answer questions and provide further information as required.

**Enclosure 6** is a memo from Harbormaster Jim Caulkett requesting acceptance of a \$50,000 grant from the Massachusetts Seaport Advisory Council for a Feasibility Study for Public Access Docks, Ramps and Water Transportation located at Stage Fort Park. *Please refer this matter to the Budget and Finance subcommittee for review and approval.* Harbormaster Jim Caulkett will be available to answer questions and provide further information as required.

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**CITY OF GLOUCESTER**  
**OFFICE OF THE MAYOR**

**Enclosure 7** is a memo from Harbormaster Jim Caulkett requesting acceptance of a \$800,000 grant from the Massachusetts Seaport Advisory Council for the Harbormaster Wharf Improvement Project. *Please refer this matter to the Budget and Finance subcommittee for review and approval.* Harbormaster Jim Caulkett will be available to answer questions and provide further information as required.

**Enclosure 8** is a memo from Joseph P. Parisi, Jr., Director of Public Works, requesting acceptance of a Municipal Sustainability Grant from the Massachusetts Department of Environmental Protection. The grant is in the amount of \$2,800 and is in the form of Mass. DEP personnel will provide up to 80 hours of assistance to the community between now and June 2008. *Please refer this matter to the Budget and Finance subcommittee for review and approval.* Recycling Coordinator Kathy Middleton will be available to answer questions and provide further information as required.

**Enclosure 9** is a memo from the City Auditor regarding accounts having expenditures which exceed their appropriations. As is your normal practice, *please refer this matter to the Budget and Finance subcommittee for review.*

**Responses to Council Requests:**

**Enclosure 10** is a response to Council Request #07-260 from Joseph P. Parisi, Jr., Director of Public Works.

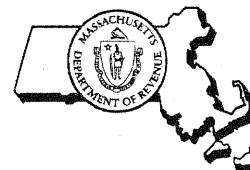
**For Information Only:**

**Enclosure 11** is a memo and press release from Fire Chief Barry S. McKay.

**Enclosure 12** is a copy of the Assessor's Department Quarterly Report for the period October through December 2007.



# **ENCLOSURE 1**



January 10, 2008

Anna Tenaglia  
Finance Director  
City of Gloucester  
9 Dale Ave.  
Gloucester, Mass. 01930

Dear Ms. Tenaglia:

The FY2008 tax rate for the city of Gloucester was reviewed and certified by the Bureau of Accounts on December 21, 2007 under separate cover. The purpose of this letter is to review concerns noted during the tax rate certification process and to review my concerns regarding the fiscal health and practices of the city. It was good to discuss with you some of these issues in our recent telephone conversation.

- I required the city to submit its 6/30/07 balance sheet to the Bureau prior to FY2008 tax rate certification. I was informed by the city that a balance sheet would be submitted "well in advance of the time frame for setting next year's tax rate." The Bureau certified the FY2008 tax rate on December 21, 2007 believing that balance sheet submission was imminent. On January 8<sup>th</sup>, you informed the Bureau that a balance sheet is not yet final. It is my understanding that the City Auditor has recently retired.

At this time, I am requiring that the 6/30/06, 6/30/07 and 6/30/08 balance sheets be provided to the Bureau in proper free cash certification form prior to FY2009 tax rate certification.

- Per Schedule A-2 for each of the city's three enterprise funds, no amount was included on part 2b, costs appropriated in the General Fund. I am unclear as to whether reporting of indirect cost appropriations was an oversight or not. If indirect costs appropriations were reported on page 4, column (b) of the Tax Rate Recap, there are further implications.

- Per Schedule B-2, Sources and Uses of Other Available Funds, we noted Betterment Funds with an available amount of over \$5.4 million as of 6/18/07. Betterments are usually receipts of the General Fund or revenue of an enterprise fund unless special legislation directs otherwise. Please provide Everett Griffiths with a copy of Gloucester's legislation that authorizes this fund.
- FY2008 estimated receipts reported on page 3 of the Tax Rate Recap increased over FY2007 actuals on most lines in total by about 7.7%. Although reasonable documentation was provided by the City Auditor, the Bureau will be interested in the final outcome as FY2007's estimate was under-achieved by about 9.6%.
- It is my understanding that the last completed audited financial statements for the city are as of June 30, 2006. Among other issues, they indicate problems with both cash and accounts receivable reconciliations. It has been the Bureau's practice and will continue to be that variances in both these reconciliations will reduce free cash.

At this time, I am requiring final audited financial statements as of 6/30/07 to be submitted and reviewed before the FY2009 tax rate or pro forma recap is approved by the Bureau of Accounts and that a plan be submitted to the Bureau by you and/or the Mayor indicating when audited financial statements as of 6/30/08 will be completed.

In closing, I want to congratulate you on your new appointment. Further, this office stands ready to assist you and the city in any capacity that the statutes or regulations allow. If you have any questions, feel free to contact me or your field representative Everett Griffiths.

Sincerely,



Gerard D. Perry  
Director of Accounts  
Massachusetts Department of Revenue

cc: Mayor Carolyn Kirk  
City Council President Bruce Tobey  
Board of Assessors

# **ENCLOSURE 2**

# *Giusti, Hingston and Company*

Certified Public Accountants

36 Jackman Street, Unit One

Georgetown, MA 01833

Tel: 978-352-7470 Fax: 978-352-8812

Email: GiustiHingstonCo@aol.com

December 7, 2007

Honorable Mayor John Bell  
and City Council  
City Hall  
Dale Avenue  
Gloucester, MA 01930

In planning and performing our audit of the financial statements of the City of Gloucester, Massachusetts, for the year ended June 30, 2006, we considered its internal control in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statements and not to provide assurance on the internal control. However, we noted certain matters involving internal control and its operation that we consider to be reportable conditions under standards established by the American Institute of Certified Public Accountants. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control that, in our judgment, could adversely affect the City of Gloucester, Massachusetts's ability to initiate, record, process, and report financial data consistent with the assertions of management in the financial statements.

A material weakness is a reportable condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

Our consideration of internal control would not necessarily disclose all matters in internal control that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material weaknesses as defined above. However, we consider the following reportable conditions numbered 1 through 10 to be material weaknesses.

We also noted the other matters that are not believed to be material weaknesses that we are communicating to you (Items 11 through 19).

## **1. Systems of Internal Control**

During fiscal year 2006, the City began the process of converting its financial reporting software. The conversion process did not go well for a variety of reasons. Many of the issues are detailed in this report. However, the most critical area to the City's system of internal control related to the inability to properly report and/or record (in a timely manner) revenues in the accounting system.

Since revenues were not posted or were not posted accurately in the accounting system, substantially all systems of internal control were rendered ineffective. Balances in the grant and revolving accounts could not be reviewed for availability of funds prior to approving bills for payment, reconciling procedures for cash and accounts receivable could not be performed and revenue budget versus actual reports could not be prepared for analytical review.

When reports were run, it was determined that errors were made in the revenue classification codes. A considerable amount of time and effort was made to identify and correct the revenue postings. However, due to the magnitude of the problems the software firm supplied a program that would provide a "sweeping journal entry" to correct the revenue postings based on the corrected classification codes. Other significant journal entries were made to adjust the general ledger receivable accounts to equal their related detail outstanding lists. A sweeping entry was also made in the fiscal year 2007 general ledger. I anticipate that significant journal entries to the receivable accounts will be required as of June 30, 2007.

Although we agree that both resolutions were necessary in order to move forward, there is inherent internal control weaknesses to making journal entries without supporting documentation.

The City is making efforts to rebuild its systems of internal control during fiscal year 2008. It is extremely important that the internal control procedures related to cash and the accounts receivable are given a high priority.

## **2. Revenue Reporting**

### **Conversion Issues**

As a result of problems encountered during the software conversion, revenues (November 2005 to June 2006) were not recorded in the general ledger until September 2006. Even when the revenues were recorded, many were posted to the wrong accounts due to classification code errors. Others were posted to the wrong period (i.e. entry date issues) or were split and posted on different dates.

The inability to properly post revenues to the general ledger had a negative impact on the City's internal control environment relating to reconciling procedures. It, also, prevented the City Auditor from verifying the availability of funds in the special revenue and revolving funds prior to approving expenditures. As a result, key components of the City's internal control structure was rendered ineffective and several special revenue or revolving accounts ended up with deficit balances. The problem has carried forward to fiscal year 2007 because year end balances were not brought forward to 2007.

Fiscal year 2007 has many of the same issues as fiscal year 2006. Reconciling procedures have not been performed and a considerable amount of time and effort will be required in order to close the books as of June 30, 2007.

We recommend that the City continue its efforts to verify that the activity in 2008 is being properly posted. We, also, recommend that the City close fiscal year 2007 as soon as possible so that year end balances can be rolled forward into the 2008 general ledger.

### **Flow of Information**

During our audit we performed procedures and reviewed work done by others during periods that extended beyond June 30, 2006 in order to make recommendations relating to improving systems of internal control. As a result, we noted that some lockbox (motor vehicle excise tax) revenues were recorded in the general ledger but were not recorded in the Treasurer's cashbook. This occurred because paperwork related to the lockbox receipts were not forwarded to the Treasurer's Office. The errors were noted when the City was reconciling the cash activity for July 2007 - September 2007 (fiscal year 2008). Errors of this type make the cash and accounts receivable reconciliation processes more difficult because the Treasurer's cashbook does not include all of the activity of the period.

We recommend that the Collector's Office and Treasurer's Office develop procedures that ensure that all receipts collected are reported to the Treasurer's Office in a timely manner.

### **3. Cash Reconciliation**

Prior to fiscal year 2006, the City had strong procedures to reconcile the Treasurer's cashbook to the City Auditor's general ledger. When the City converted software in November 2006, that data link between the Treasurer's Office and the City Auditor's office (general ledger) was not functional.

Therefore, cash receipts could not be transmitted to the general ledger. When the data link became operational (September 2006), receipts were posted using a February entry date instead of the date of collection/deposit. Also, when a revenue batch could not be processed in the general ledger because of a "classification code" problem with a particular revenue, that revenue was pulled from the batch and the batch was resubmitted. In some instances, the revenues never got added to a new batch. These issues made it extremely difficult to reconcile even one days deposit from the cashbook to the general ledger. As a result of these and other software and operational issues, monthly cash reconciliation procedures between the Treasurer's cashbook and the general ledger were not performed during fiscal year 2006 or fiscal year 2007. At June 30, 2006, the City had a variance between the general ledger and the Treasurer's cash of approximately \$139,000 (ledger was higher).

Performing cash reconciliation procedures on a monthly basis is a fundamental element of an internal control structure. The City has performed the procedures for fiscal year 2008 (July, August and September 2007), but still have a number of variances to clear up before those months can be considered reconciled.

We recommend that the City perform the cash reconciliation procedures on a timely basis every month. Variances between the Treasurer's cash book and the general ledger should be reviewed and resolved. Good reconciling procedures will enhance the control structure by allowing the City to detect and correct errors in a timely manner.

### **4. Reconciling Procedures -Accounts Receivable**

Procedures were not in place to reconcile the accounts receivable on a monthly basis. As a result, significant adjustments were required to balance the general ledger accounts to the respective detail outstanding lists as of June 30, 2006.

When the City began its efforts to reconcile the accounts receivable, difficulties were encountered because the system generated reports did not provide for "period reporting". Period reporting allows for selecting a range of dates (i.e. June 1, 2006 – June 30, 2006) and reporting on data within that date range. Many of the system reports available at that time (and currently) could only be run as "inception to date" (i.e. from the original commitment date to the date on which the report was run). Once a month end had past, a report for that month only could not be generated.

Even now, the reports available make the reconciliation process difficult and cumbersome. Different reports must be run to obtain commitment abatement and receipt totals.

We recommend that the city work with its software provider to develop reports that will simplify the reconciliation process. Period reporting for all significant reports should be requested. Until new reports are available, the City should utilize the current reports to perform monthly reconciling procedures.

Performing monthly reconciliation procedures will enhance the internal control environment by allowing the City to detect and correct errors in a timely manner.

## **5. Capital Project Funds**

### **Borrowings**

The City votes to approve loan authorizations to fund projects that will benefit the taxpayer over a long period of time. The votes provide the City with the authority to borrow (short term and/or long term) to provide funding for the projects. Failure to borrow for projects in a timely manner can negatively impact the City's cash flow. Also, the City's free cash position can be adversely effected because the formula utilized (by the Department of Revenue) to calculate the City's free cash position subtracts capital project fund balance deficits resulting from project expenditures that do not have offsetting borrowings (short or long term).

As of June 30, 2006, the City had several capital project accounts with significant deficit balances that did not have a related short term debt instrument.

Project Managers should make the Treasurer aware of upcoming cash flow requirements for the fiscal year. The City should develop policies to ensure that project expenditures do not exceed their related borrowings.

### **Budgets**

Capital project funds derive their budgets from the loan authorizations approved for the related project. There are two methods for entering budget amounts in the subsidiary expenditure system. One method is to enter a budget amount any time a new borrowing occurs (i.e. new money). This method allows the City to be sure that expenditures have not exceeded the related borrowings. It, also, provides a mechanism to encumber unspent proceeds from borrowing. However, it does not provide a good budgeting tool for large long term projects. Another method is to enter the loan authorizations as the budgeted amount. Although this method provides a good budgeting tool, there is a possibility that expenditures made will exceed what has been borrowed. The City could review a balance sheet account prior to approving expenditures in order to avoid spending in excess of what has been borrowed (if each capital project is in a separate fund). However, typically only the budgets are reviewed prior to approving bills for payment. Additionally, this method does not provide the ability to determine unexpended proceeds from borrowings unless each capital project is in its own fund.

During fiscal year 2006, the budgets in the capital project funds were not updated for new borrowings. As a result, the ability to verify available funds prior to paying bills was diminished. Also, the City, could not determine the unexpended proceeds from borrowings related to the enterprise funds. It is necessary to determine and encumber the unspent proceeds in order to have the enterprise fund free cash certified.

We recommend that the City review the enterprise fund capital projects for 2006 and 2007. Budget amounts should be increased for new borrowings. The unspent proceeds (i.e. budget balances) should be encumbered at June 30, 2007.

## **6. Enterprise Fund Budgeted Revenues**

The City estimates revenues for the water, sewer and waterways enterprise funds. The budgeted



revenues are utilized to offset the appropriations related to each fund and are reported on the City's tax recapitulation sheet.

If the revenues received during the fiscal year (cash basis) are less than the amount budgeted, the effect would be a reduction of the free cash in the related enterprise fund. If an enterprise fund has ongoing free cash deficits, the Division of Local Services could make the City raise the deficit on the tax recap sheet. Raising enterprise fund deficits on the recap sheet would reduce the amount that could be appropriated for general fund purposes.

During fiscal year 2006, the sewer and water fund actual revenues (cash basis) did not meet the budgeted revenues by significant amounts. This was due in part because billings related to fiscal year 2006 did not occur in a timely manner (i.e. 3<sup>rd</sup> quarter billings - May 31, 2006; 4<sup>th</sup> quarter billing - July 7, 2006).

As a result, a considerable amount of fiscal year 2006 revenues (cash basis) were not received until fiscal year 2007. Typically, the Division of Local Services will give a municipality "credit" for revenues received in a subsequent fiscal year (due to a late commitment) when calculating the free cash position of an enterprise fund.

Due to the revenue reporting difficulties encountered during fiscal years 2006 and 2007, we could not determine the exact amount of 2006 revenues collected during early 2007. In order to determine whether actual revenues (as adjusted for the late commitment) met the budgeted revenues, we estimated collections based on the percentage the City uses for its budgeting purposes. Based on the estimates, it appears that the City's sewer and water funds revenues were less than budgeted in the \$200,000 range and \$400,000 range respectively. Appropriations not fully expended or encumbered at year end can mitigate the negative impact that occur when actual revenues are less than budgeted.

We recommend that the City make efforts to get all utility billings out in a timely manner. Also, conservative revenue estimates should be made. Monthly budget versus actual revenue reports should be reviewed and analyzed. If it does not appear that revenue estimates will be met, expenditures should cut back accordingly.

## **7. Chapter 90 Grants**

The Commonwealth of Massachusetts annually notifies the City of the amount of funding it will receive for road projects. The grant, commonly referred to as Chapter 90 funds, is a reimbursable grant. The City must have projects approved by Massachusetts Highway Department and submit requests for reimbursements after expenditures are made for an approved project. As a result, the Chapter 90 fund balance account is typically in a deficit balance until the reimbursements are received.

The Department of Revenue reviews the Chapter 90 account each year when it is certifying "free cash" as of June 30. If the Chapter 90 account is in a deficit balance, free cash is reduced to the extent that reimbursements have not been requested prior to June 30 (if the request for reimbursement is not made until July, the amount of free cash certified will be reduced by the amount of the deficit). As of June 30, 2006, requests for reimbursements were not made for expenditures that occurred during the fiscal year.

We recommend that the City establish controls to ensure that reimbursement requests are made prior to June 30 so that the City's free cash position will not be reduced. Timely reimbursements will also help the City's cash flow.

## **8. Grants**

The School Department converted to the new software in July 2006 while the rest of the City converted in November 2006. During the early phase of the conversion, the School was creating account numbers for new grant accounts. In developing a City-Wide chart of accounts, the City Auditor created grant accounts (for the same new grants) using a different numbering scheme. As a result, there were several grants that had two general ledger grant accounts with the same names. Some of the revenues, went to the first account while the rest of the revenues and all of the expenditures were recorded in the second account. Also, classification code errors caused revenues from some grants (i.e. Baystate II grant) to be recorded in a different grant account (i.e. Special Education IDEA). We, also, noted that expenditures for certain grants (i.e. Title I, Title II and Occupational Education) were recorded in the wrong grant year.

These issues caused some grant accounts to incorrectly reflect deficit balances and others incorrectly reflect positive balances. We recommended adjusting journal entries (which were made by the City Auditor) to correct the revenue postings. However, the expenditure transactions still need to be reviewed and corrected.

We recommend that the City Auditor and the School Business Manager review the school grants and make the necessary adjusting entries.

## **9. Tax Liens**

Tax liens revenues collected since October 2006 have not been entered in the accounting records through the revenue reporting system (general ledger or collector's detail records) as of June 30, 2006 (and through the present time). The revenues collected during fiscal year 2006 (approximately \$238,000) were deposited in the bank and recorded in the Treasurer's cashbook. However, since the general ledger did not include those revenues, a journal entry was made in order to reflect the activity. Since payments have not been recorded in the Treasurer's computerized detail records, a manual system has been maintained. The manual system is cumbersome and does not provide the ability to easily run monthly reports. It, also, makes preparing municipal lien certificates considerably more difficult.

We recommend that the City work with its software vendor to fully utilize the tax lien software. Efforts should be made post receipts (through the current date) into the software's detail records.

We, also, recommend that the City make efforts to transmit all tax lien revenues through the data link so that the general ledger will reflect all of the City's financial activity.

## **10. Sewer Betterments**

The City utilizes special revenue funds to account for the accounts receivable and revenues related to the sewer betterments. During the annual budget process, betterment fund balances are voted as "other available funds" to offset a portion of the long term debt and interest of the related betterment projects.

In order for an amount to be properly voted as an "other available fund", the funds should be on hand at the time of the vote. At June 30, 2006, two betterment funds had deficit balances (Fund 400004, MPEW - \$46,137 AND Fund 530000 - West Gloucester/Little River - \$206,775). This would indicate that that funds were not "available" at the time the vote was made. It is possible to budget "anticipated" betterment revenues as estimated revenues. However, if they are not received

they could cause/add to a revenue deficit which would have to be raised as a deficit on the subsequent tax recap sheet.

We recommend that the City only vote funds actually on hand as "available funds". Anticipated betterments should be included on the estimated receipts page of the tax recap. The City should make conservative estimates so that a revenue deficit will not occur.

## **Other Matters**

### **11. Infrastructure Assets**

The City implemented Governmental Accounting Standards Board Statement Number 34 (G.A.S.B. 34) during fiscal year 2003. The G.A.S.B. 34 required the City to report capital assets in its financial statements. In order to ease the implementation process, a phase in period of four years was allowed for general infrastructure assets (i.e. streets, sidewalks).

Even though the G.A.S.B. allowed a phase in period, standards required us to issue an adverse opinion on the entity wide financial statements related to the governmental activities.

We recommend that the City hire a consultant to value its infrastructure assets. The assets value and the related accumulated depreciation should be determined as of June 30, 2008, so that the adverse opinion can be changed during that audit period. Depreciation for fiscal year 2008 should be included in the consultant's report.

### **12. Withholding Accounts**

The City implemented new payroll software during fiscal year 2006. The software is very flexible due to its varied client base. The software allows the City to maintain all withholding accounts (i.e. Federal, State, Health Insurance, etc...) in one fund, or to have separate withholding accounts in every fund that has employees charged to it. The City's system was implemented using the latter method. As a result, the City could have over one hundred different federal withholdings, state withholdings, and health insurance withholding accounts when one each would be sufficient. Having so many withholding liability account increases the possibility for errors.

We recommend that the City report all withholding accounts in one fund. The fund should only include one federal withholding account, one state withholding account and one health insurance withholding account.

### **13. Financial Analysis – Sewer Betterment Funds**

As the sewer betterment project has grown, the complexity of maintaining the accounting and treasurer's records has grown with it. The sewer betterment project has spanned approximately fifteen years. The projects have been performed in nine different phases and the general ledger includes twelve funds to account for the activities related to the various phases.

The different funds were established for each phase to coincide with the related debt instrument (bond) used to fund the project. It was, also, important to maintain separate funds because the City/Betterment percentage of financial responsibility for the debt was not the same for all phases. Maintaining a separate fund for each phase facilitates financial analysis of the phases.

We believe that is extremely important that the City perform an "annual" financial analysis of each fund. The City should compare each fund's betterment receivable and fund balance to the related debt payments due in future years. The analysis should consider when the betterment revenues will be received (i.e. based on the apportionments) and when the principal and interest will be paid (based on the debt amortization schedule).

The purpose of the analysis is to ensure that the anticipated City vs. Betterment payment ratio is accurate, that the timing of the revenues coincides with the debt principal and interest requirements and that (by using the current ratios) betterment revenues will be available throughout the life of the debt.

If it appears that the betterment revenues will not be available in the final years of the debt, the City/Betterment ratio should be adjusted. It would not be in the best financial interest of the City to have a year or two at the end of a debt instrument where the City has to pay 100% of the principal and interest.

#### **14. Trust Funds**

During fiscal year 2006, the general ledger included a separate fund for each trust fund. The bank that manages the trust funds provides a quarterly statement that identifies the receipts and disbursements of each trust fund and the ending balance for the quarter. As of June 30, 2006, there were variances between the bank and the general ledger for the various trust fund accounts.

We recommend that the City review the bank's quarterly report and determine the reasons for the variances. Journal entries should be made to correct the general ledger.

#### **15. Payroll**

As part of our testing related to the City's payroll, we reviewed the four quarterly filings (Form 941). The total of the four quarters (Form 941) should equal the year end information submitted. We could not tie in the quarterly forms to the year end report.

We recommend that the City review the procedures utilized to file the 941 forms and the end of year reports.

#### **16. Postemployment Benefits**

Employee benefits can include pensions, health insurance and life insurance. These benefits are part of the "exchange of salaries and benefits" for employee services rendered. Whereas the cost of the health insurance and life insurance for active employees is incurred while the employees are in active service, pensions and the postemployment health care benefits are taken after the employees' services have ended. Nevertheless, both types of benefits constitute compensation for employee services (i.e. the employees have "earned" their postemployment benefits prior to leaving service).

From an accrual accounting perspective, the cost of the pensions as well as other postemployment benefits (OPEB), generally should be associated with the period in which they were earned rather than when the benefits are paid (often many years later). However, in current practice OPEB expenses are funded on a "pay as you go" basis. By operating on the "pay as you go" method, governments have incurred an unfunded liability. Also, financial statements do not reflect an OPEB liability or expense until they are paid.

As a result, the Governmental Accounting Standards Board (GASB) has released two statements (#43 – Financial Reporting for Postemployment Benefit Plans Other Than Pensions and #45 Accounting and Financial Reporting by Employers for Postemployment Benefits Other Than Pensions) relating to the accounting treatment and financial reporting for postemployment benefit plans other than pensions (the pension issue had been addressed by previous GASB Statements).

The objectives of these statements are to improve financial reporting by reflecting OPEB expenditures as they are earned and by reporting any unfunded liability. The unfunded liability at the beginning of the transition year is zero. The unfunded liability at the end of year one is the difference between an actuarially determined contribution requirement and the amount actually contributed by the employer. The Governmental Accounting Standards Board has no statutory authority to require governments to fund the unfunded liability. However, it is their hope that recognition of the liability and its effect on the financial statements will cause governments to do so.

Even if government chooses not to fund the OPEB liability, there will be some increased costs. An actuarial valuation is required at least biennially for OPEB plans with a total plan membership (including active employees, terminated employees not yet receiving benefits and retired employees or beneficiaries who are currently receiving benefits) of 200 or more. Triennial actuarial valuations are required for plans with less than 200 plan members. The GASB has allowed for an "Alternative Measurement Method" for employers with fewer than 100 plan members. However, the alternative method is fairly complex and requires some familiarity with actuarial techniques. In addition to the direct costs that will be incurred for actuarial valuations, many believe that bond ratings will be decreased (causing increased interest costs) if the unfunded liability is not addressed.

Funding the OPEB liability will have a direct impact on the City's ability to fund its operating budget. The City is not required to implement GASB statement #45 until fiscal year 2009. However, it is important that the City become aware of the requirements, consider its options and develop a long range plan that addresses this significant issue.

#### **17. Student Activity Accounts**

Typically, schools have under their control various bank accounts relating to student activity funds (i.e. Class of 2007, Ski Club, etc.). Massachusetts General Laws Chapter 66 of the Acts of 1996 now govern the manner in which student activity accounts should be maintained.

In order to enhance the City's internal control structure and to comply with Massachusetts General Laws, we recommend the following:

- 1.) All student activity bank accounts maintained by the schools should be closed. The funds should be turned over to the Treasurer.
- 2.) The Treasurer should establish one bank account for all student activity funds.
- 3.) The City Auditor should establish one student activity account per school in the general ledger.
- 4.) The School Committee should authorize the Principals to establish a checking account for an amount that will cover expenses until the bank account can be replenished through the normal warrant process. The bank account should act as an imprest account.
- 5.) After funds are disbursed by the Principal, invoices should be submitted to the City Auditor to replenish the Principal's checking account.

- 6.) The Principal or his/her designee is responsible for maintaining a subsidiary ledger that details each activity's transactions and account balance (since the City Auditor will have just one control account per school). Maintaining the subsidiary ledgers on an accounting software program would simplify the process.

The new procedures require a considerable amount of planning. Student advisors or others who manage student activity accounts must make the Principal aware of upcoming needs. If a check will be required that is greater than the amount in the Principal's bank account, the normal warrant process can be utilized.

**The following findings are related to federal grants. They are, also, detailed in the audit report in the Schedule of Findings and Questioned Costs.**

**18. U.S. Department of Education – SPED – Idea Allocation Grant – CFDA #84.027**

1. The state certification had expired for one teacher who was charged to the grant. Federal regulations (No Child Left Behind Act) require that all teachers have full state certification. We recommend that the City review the certifications for all teachers to ensure they meet the Highly Qualified Teacher standard.
2. Internal controls did not exist to insure that all final reports were filed in a timely manner. As a result, the final report (FR-1) was not filed on time.

**19. U.S. Department of Education – SPED – Idea Allocation Grant – CFDA #84.027 and SPED – Early Childhood - CFDA #84.173**

Internal controls did not exist to insure that the required employee certifications for individuals charged 100% or part time to federal grants were on file. In absence of signed timesheets to support payroll charges to federal grant programs, the United States Office of Management and Budget (OMB) Circular A-87 specifies that certain certifications must be made as noted below:

1. Where employees are expected to work solely on a single Federal award or cost objective, charges for their salaries and wages will be supported by periodic certifications that the employees worked solely on that program for the period covered by the certification. These certifications will be prepared at least semiannually and will be signed by the employee or supervisory official having first hand knowledge of the work performed by the employee.
2. Where employees work on multiple activities or cost objectives, a distribution of their salaries or wages will be supported by personnel activity reports or equivalent documentation.

Personnel activity reports or equivalent documentation must meet the following standards:

- (a) They must reflect an after-the-fact distribution of the actual activity of each employee.
- (b) They must account for the total activity for which each employee is compensated.

- (c) They must be prepared at least monthly and must coincide with one or more pay periods.
- (d) They must be signed by the employee.
- (e) Budget estimates or other distribution percentages determined before the services are performed do not qualify as support for charges to Federal awards, but, may be used for interim accounting purposes when certain other requirements are met.

\* \* \* \* \*

This report is intended solely for the information and use of the Mayor, City Council, management, and others within the administration and is not intended to be and should not be used by anyone other than these specified parties.

After you have had an opportunity to consider our findings and recommendations, we shall be pleased to discuss them further with you. We would like to thank the City personnel for the cooperation and courtesy extended to us during the course of the engagement.

Very truly yours,

*Giusti, Hingston and Company*

Giusti, Hingston and Company  
Certified Public Accountants

DEC 28 2007

CITY OF GLOUCESTER, MASSACHUSETTS

Financial Statements

June 30, 2006

(With Accountants' Report Thereon)

*Giusti, Hingston and Company*  
*Certified Public Accountants*  
*Georgetown, MA 01833*

*36 Jackman St., Unit 1*

\*

\*

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City of Gloucester, Massachusetts  
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INDEPENDENT AUDITORS' REPORT ON BASIC FINANCIAL STATEMENTS - CITY OF  
GLOUCESTER

Honorable Mayor John Bell  
and City Council  
City Hall  
Dale Avenue  
Gloucester, MA 01930

We have audited the accompanying financial statements of the governmental activities, the business-type activities, each major fund and the aggregate remaining fund information of the City of Gloucester, Massachusetts as of and for the year ended June 30, 2006, which collectively comprise the basic financial statements of the City's primary government as listed in the table of contents. These financial statements are the responsibility of the City of Gloucester, Massachusetts' management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

The financial statements referred to above include only the primary government of the City of Gloucester, Massachusetts, which consists of all funds, organizations, institutions, agencies, departments, and offices that comprise the City's legal entity. The financial statements do not include financial data for the City's legally separate component units, which accounting principles generally accepted in the United States of America require to be reported with the financial data of the City's primary government. As a result, the primary government's financial statements do not purport to, and do not, present fairly the financial position of the reporting entity of the City of Gloucester, Massachusetts, as of June 30, 2006, and changes in its financial position and its cash flows, where applicable, for the year then ended in conformity with accounting principles generally accepted in the United States of America (the City's only component unit is the Gloucester Contributory Retirement System).

Management has not recorded certain general infrastructure assets in governmental activities (streets and sidewalks) and, accordingly, has not recorded depreciation expense on those assets. Accounting principles generally accepted in the United States of America require that those general infrastructure assets be capitalized and depreciated, which would increase the assets, net assets, and expenses of the governmental activities. The amount by which this departure would affect the assets, net assets, and expenses of the governmental activities is not reasonably determinable.

In our opinion, because of the effects of the matter discussed in the preceding paragraph, the financial statements referred to above do not present fairly, in conformity with accounting principles generally accepted in the United States of America, the financial position of the governmental activities of the City of Gloucester, Massachusetts as of June 30, 2006, and the changes in financial position thereof for the year then ended.

In addition, in our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the business-type activities, each major fund and the aggregate remaining fund information for the primary government of the City of Gloucester,

Massachusetts as of June 30, 2006 and the respective changes in financial position and cash flows, where applicable, thereof for the year then ended in conformity with accounting principles generally accepted in the United States of America.

In accordance with *Governmental Auditing Standards*, we have also issued our report dated November 30, 2007 on our consideration of the City of Gloucester, Massachusetts' internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in conjunction with this report in considering the results of our audit.

The City of Gloucester, Massachusetts has elected not to present Management's Discussion and Analysis (M.D.A.) or the budgetary comparison information that accounting principles generally accepted in the United States has determined are necessary to supplement, although not required to be part of, the basic financial statements. The M.D.A. election was made because infrastructure assets have not been reported and any analysis of the entity wide financial statements would be incomplete. The budgetary comparison was omitted because system generated reports could not provide original and final budget amounts.

Our audit was performed for the purpose of forming an opinion on the basic financial statements of the City of Gloucester taken as a whole. The accompanying schedule of expenditures of federal awards required by U.S. Office of Management and Budget Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*, is presented for purpose of additional analysis and is not a required part of the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and in our opinion, is fairly stated, in all material respects, in relation to the basic financial statements taken as a whole.

*Giusti, Hingston and Company*

Giusti, Hingston and Company

Certified Public Accountants

November 30, 2007

## City of Gloucester, Massachusetts

## Statement of Net Assets

June 30, 2006

(Continued on Page 4)

	Governmental Activities	Business - Type Activities	Government- Wide Total
<b>Assets</b>			
<b>Current:</b>			
Cash/Investments	\$ 18,312,375	\$ 114,548	\$ 18,426,923
Petty Cash	6,400	-	6,400
Receivables:			
Property Taxes	1,669,509	-	1,669,509
Tax Liens	1,426,039	-	1,426,039
Excises	545,892	213,166	759,058
Departmental	777,264	9,109	786,373
User Charges	-	2,744,879	2,744,879
Utility Liens	-	86,141	86,141
Intergovernmental	3,836,959	-	3,836,959
Accrued Earnings	4,190	-	4,190
Special Assessments and Committed Interest	82,960	-	82,960
Revolving Loans	703,402	-	703,402
<b>Noncurrent:</b>			
Intergovernmental	14,475,155	-	14,475,155
Deferred Property Taxes	84,512	-	84,512
Deferred Special Assessments	15,787,176	-	15,787,176
Capital Assets:			
Assets Not Being Depreciated	19,097,392	11,919,794	31,017,186
Assets Being Depreciated, Net	52,157,580	129,029,259	181,186,839
<b>Total Assets</b>	<b>128,966,805</b>	<b>144,116,896</b>	<b>273,083,701</b>
<b>Liabilities</b>			
<b>Current:</b>			
Warrants Payable	286,650	276,139	562,789
Refunds Due	152,557	-	152,557
Accrued Salaries Payable	1,908,237	35,074	1,943,311
Employees' Withholding Payable	79,640	-	79,640
Due to Individuals	44,634	-	44,634
Due to Other Governments	(213)	-	(213)
Unclaimed Checks	10,674	-	10,674
Incurred But Not Received Health Payable	488,052	-	488,052
Accrued Interest Payable	839,142	429,934	1,269,076
Bond Anticipation Notes Payable	3,682,391	4,320,000	8,002,391
Bonds Payable	5,999,761	2,211,479	8,211,240

City of Gloucester, Massachusetts  
Statement of Net Assets  
June 30, 2006  
(Continued from Page 3)

	Governmental <u>Activities</u>	Business - Type <u>Activities</u>	Government- Wide <u>Total</u>
Noncurrent:			
Bonds Payable	68,750,946	25,756,648	94,507,594
Compensated Absences	2,111,508	230,750	2,342,258
Total Liabilities	<u>84,353,979</u>	<u>33,260,024</u>	<u>117,614,003</u>
<b>Net Assets</b>			
Invested in Capital Assets, Net of Related Debt	51,240,755	112,980,926	164,221,681
Restricted for:			
Capital Projects	-	61,070	61,070
Debt Service	20,935,630	-	20,935,630
Special Revenue	7,389,278	-	7,389,278
Perpetual Funds:			
Expendable	116,961	-	116,961
Nonexpendable	677,350	-	677,350
Unrestricted	<u>(35,747,148)</u>	<u>(2,185,124)</u>	<u>(37,932,272)</u>
Total Net Assets	<u>\$ 44,612,826</u>	<u>\$ 110,856,872</u>	<u>\$ 155,469,698</u>

City of Gloucester, Massachusetts  
Statement of Activities  
Fiscal Year Ended June 30, 2006

Functions/Programs	Program Revenues				Net (Expenses) Revenues and Changes in Net Assets		
	Expenses	Charges for Services	Operating	Capital	Governmental Activities	Business-Type Activities	Total
			Grants and Contributions	Grants and Contributions			
<i>Governmental Activities:</i>							
General Government	\$ 15,127,040	\$ 341,539	\$ 2,172,944	\$ 4,235	\$ (12,608,322)	\$ -	\$ (12,608,322)
Public Safety	10,987,778	2,011,222	1,265,424	-	(7,711,132)	-	(7,711,132)
Education	49,430,127	2,068,448	15,724,868	-	(31,636,811)	-	(31,636,811)
Highways and Public Works	5,539,718	2,344,671	787	837,457	(2,356,803)	-	(2,356,803)
Human Services	1,534,838	329,716	153,599	238,976	(812,547)	-	(812,547)
Culture and Recreation	986,587	26,849	98,192	-	(861,546)	-	(861,546)
Debt Service	3,536,180	-	-	-	(3,536,180)	-	(3,536,180)
Total Governmental Activities	87,142,268	7,122,445	19,415,814	1,080,668	(59,523,341)	-	(59,523,341)
<i>Business-Type Activities:</i>							
Waterways	281,506	316,180	1,550	-	-	36,224	36,224
Sewer	6,587,362	3,553,333	14,694	-	-	(3,019,335)	(3,019,335)
Water	5,219,270	4,825,085	(6,369)	-	-	(400,554)	(400,554)
Total Business-Type Activities	12,088,138	8,694,598	9,875	-	-	(3,383,665)	(3,383,665)
Total Primary Government	\$ 99,230,406	\$ 15,817,043	\$ 19,425,689	\$ 1,080,668	(59,523,341)	(3,383,665)	(62,907,006)
<i>General Revenues:</i>							
Property Taxes					48,523,684	-	48,523,684
Motor Vehicle and Other Excise Taxes					3,298,082	-	3,298,082
Penalties and Interest on Taxes					266,349	-	266,349
Other Taxes, Assessments and in Lieu Payments					47,593	-	47,593
Intergovernmental					5,777,323	-	5,777,323
Interest and Investment Income					276,186	-	276,186
Other Revenue					1,072,919	-	1,072,919
Contributions to Permanent Funds					204,400	-	204,400
Special Items:							
Transfer In (Out)					(628,665)	686,421	57,756
Total General Revenues, Special Items and Transfers					58,837,871	686,421	59,524,292
Change in Net Assets					(685,470)	(2,697,244)	(3,382,714)
Net Assets:							
Beginning of the Year					44,627,282	114,752,609	159,379,891
Prior Period Adjustments					671,014	(1,198,493)	(527,479)
End of the Year					\$ 44,612,826	\$ 110,856,872	\$ 155,469,698

## City of Gloucester, Massachusetts

## Governmental Funds

## Balance Sheet

June 30, 2006

	<u>General</u>	<u>Betterments</u>	<u>Nonmajor Governmental Funds</u>	<u>Total Governmental Funds</u>
<u>Assets</u>				
Cash/Investments	\$ 4,207,837	\$ 6,325,962	\$ 7,173,522	\$ 17,707,321
Petty Cash	4,150	-	2,250	6,400
Accounts Receivable:				
Property Taxes	1,669,509	-	-	1,669,509
Liens	1,391,029	35,010	-	1,426,039
Excises	545,892	-	-	545,892
Deferred Property Taxes	84,512	-	-	84,512
Departmental	697,664	-	-	697,664
Intergovernmental	15,996,613	-	2,315,501	18,312,114
Accrued Earnings on Investments Receivable	-	-	4,190	4,190
Special Assessments and Committed Interest	-	78,781	4,179	82,960
Deferred Special Assessments	-	14,495,877	1,291,299	15,787,176
Tax Foreclosures	333,217	-	-	333,217
Revolving Loans	-	-	703,402	703,402
Total Assets	<u>\$ 24,930,423</u>	<u>\$ 20,935,630</u>	<u>\$ 11,494,343</u>	<u>\$ 57,360,396</u>

Liabilities and Fund Balances

## Liabilities:

Warrants Payable	\$ 185,555	\$ -	\$ 101,095	\$ 286,650
Refunds Due	152,557	-	-	152,557
Accrued Salaries Payable	1,679,063	-	229,174	1,908,237
Employees' Withholding Payable	79,640	-	-	79,640
Other Liabilities	155,836	-	(111,202)	44,634
Due to Other Governments	(213)	-	-	(213)
Unclaimed Checks	-	-	10,674	10,674
Bonds Anticipation Notes Payable	-	-	3,682,391	3,682,391
Deferred Revenue	20,230,177	14,609,773	3,644,811	38,484,761
Total Liabilities	<u>22,482,615</u>	<u>14,609,773</u>	<u>7,556,943</u>	<u>44,649,331</u>

## Fund Equity:

## Fund Balances:

Reserved for Encumbrances	825,329	-	-	825,329
Reserved for Debt Service	-	6,325,857	-	6,325,857
Reserved for Perpetual Permanent Funds	-	-	677,350	677,350

## Unreserved:

## Undesignated, Reported in:

General Fund	1,622,479	-	-	1,622,479
Special Revenue Fund	-	-	5,377,651	5,377,651
Capital Projects Fund	-	-	(2,234,562)	(2,234,562)
Permanent Fund	-	-	116,961	116,961
Total Fund Balances	<u>2,447,808</u>	<u>6,325,857</u>	<u>3,937,400</u>	<u>12,711,065</u>

Total Liabilities and Fund Balances

<u>\$ 24,930,423</u>	<u>\$ 20,935,630</u>	<u>\$ 11,494,343</u>	<u>\$ 57,360,396</u>
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City of Gloucester, Massachusetts  
Governmental Funds  
Statement of Revenues, Expenditures and Changes in Fund Balances  
Fiscal Year Ended June 30, 2006

	General	Betterments	Nonmajor Governmental Funds	Total Governmental Funds
<u>Revenues:</u>				
Property Taxes	\$ 47,777,797	\$ -	\$ -	\$ 47,777,797
Tax Liens	351,135	-	-	351,135
Excises	3,391,335	-	-	3,391,335
Penalties and Interest	266,349	-	-	266,349
Licenses and Permits	890,062	-	-	890,062
Intergovernmental	18,722,545	-	8,252,645	26,975,190
Fees and Other Departmental	-	-	85,437	85,437
Charges for Services	2,979,223	2,599,486	2,413,707	7,992,416
Fines and Forfeits	381,914	-	-	381,914
Earnings on Investments	224,271	-	116,072	340,343
In Lieu of Taxes	47,593	-	-	47,593
Contributions	-	-	278,937	278,937
Loan Principal and Interest Repayments	-	-	239,030	239,030
Miscellaneous	1,092,784	-	1,382,554	2,475,338
Total Revenues	<u>76,125,008</u>	<u>2,599,486</u>	<u>12,768,382</u>	<u>91,492,876</u>
<u>Expenditures:</u>				
Current				
General Government	11,795,105	-	3,025,618	14,820,723
Public Safety	10,241,577	-	1,526,265	11,767,842
Education	38,548,313	-	6,787,276	45,335,589
Intergovernmental	3,084,321	-	-	3,084,321
Highways and Public Works	5,353,127	-	1,350,090	6,703,217
Human Services	654,514	-	882,175	1,536,689
Culture and Recreation	754,693	-	125,289	879,982
Debt Service	9,179,797	-	46,060	9,225,857
Total Expenditures	<u>79,611,447</u>	<u>-</u>	<u>13,742,773</u>	<u>93,354,220</u>
Excess of Revenues Over (Under) Expenditures	<u>(3,486,439)</u>	<u>2,599,486</u>	<u>(974,391)</u>	<u>(1,861,344)</u>
Other Financing Sources (Uses):				
Operating Transfers In	3,367,446	-	192,901	3,560,347
Operating Transfers (Out)	(27,000)	(2,558,366)	(1,603,646)	(4,189,012)
Proceeds from Bonds	-	-	7,633,496	7,633,496
Total Other Financing Sources (Uses)	<u>3,340,446</u>	<u>(2,558,366)</u>	<u>6,222,751</u>	<u>7,004,831</u>
Excess of Revenues and Other Sources Over (Under) Expenditures and Other Uses	<u>(145,993)</u>	<u>41,120</u>	<u>5,248,360</u>	<u>5,143,487</u>
Fund Balance, Beginning	2,593,801	6,284,737	(1,903,960)	6,974,578
Prior Period Adjustment	-	-	593,000	593,000
Fund Balance, Ending	<u>\$ 2,447,808</u>	<u>\$ 6,325,857</u>	<u>\$ 3,937,400</u>	<u>\$ 12,711,065</u>



City of Gloucester, Massachusetts  
Reconciliation of the Governmental Funds Balance Sheet  
Total Fund Balances to the Statement of Net Assets  
Fiscal Year Ended June 30, 2006

Total governmental fund balances	\$ 12,711,065
Capital assets used in governmental activities are not financial resources and, therefore, are not reported in the funds.	71,254,972
Other long-term assets are not available to pay for current-period expenditures and, therefore, are deferred in the funds.	38,151,544
Internal Service Fund Included with Enterprise funds on fund financial statements	196,602
Long-term liabilities are not due and payable in the current period and, therefore, are not reported in the governmental funds. Also, accrued interest on bonds is not reported in the governmental funds.	
Bonds Payable	(74,750,707)
Accrued Interest on Bonds	(839,142)
Compensated Absences	<u>(2,111,508)</u>
Net assets of governmental activities	<u><u>\$ 44,612,826</u></u>

City of Gloucester, Massachusetts  
Reconciliation of the Statement of Revenues, Expenditures,  
and Changes in Fund Balances of Governmental Funds  
to the Statement of Activities  
Fiscal Year Ended June 30, 2006

Net change in fund balances - total governmental funds	\$ 5,143,487
Governmental funds report capital outlays as expenditures. However, in the Statement of Activities the cost of those assets is allocated over their estimated useful lives and reported as depreciation expense. This is the amount by which depreciation exceeded capital outlays in the current period.	226,927
Revenues in the Statement of Activities that do not provide current financial resources are fully deferred in the Statement of Revenues, Expenditures and Changes in Fund Balances. Therefore, the recognition of revenue for various types of accounts receivable (i.e., real estate and personal property, motor vehicle excise, etc.) differ between the two statements. This amount represents the net change in deferred revenue.	(4,407,413)
The issuance of long-term debt (e.g., bonds and leases) provides current financial resources to governmental funds, while the repayment of the principal of long-term debt consumes the financial resources of governmental funds. Neither transaction, however, has any effect on net assets. Also, governmental funds report the effect of issuance costs, premiums, discounts, and similar items when debt is first issued, whereas these amounts are deferred and amortized in the Statement of Activities. This amount is the net effect of these differences in the treatment of long-term debt and related items.	(2,161,628)
Some expenses reported in the Statement of Activities, such as compensated absences and accrued interest, do not require the use of current financial resources and, therefore, are not reported as expenditures in the governmental funds.	594,451
The net income of the Internal Service Fund is included with the governmental funds in the in the entity wide statements, but are included with the enterprise funds in the fund financial statements.	(81,294)
Change in net assets of governmental activities	<u>\$ (685,470)</u>

City of Gloucester, Massachusetts  
Proprietary Funds  
Statement of Net Assets  
June 30, 2006

	<u>Business - Type Activities</u>				Health Insurance
	<u>Waterways Enterprise</u>	<u>Sewer Enterprise</u>	<u>Water Enterprise</u>	<u>Total Enterprise</u>	<u>Internal Service Fund</u>
<b>Assets</b>					
Current:					
Cash and Cash Investments	\$ 414,150	\$ (1,164,110)	\$ 864,508	\$ 114,548	\$ 605,054
Receivables, Net of Allowance for Uncollectibles:					
Excise Tax	213,166	-	-	213,166	-
User Charges	-	1,224,717	1,520,162	2,744,879	-
Utility Liens	-	36,247	49,894	86,141	-
Departmental	9,109	-	-	9,109	79,600
Noncurrent:					
Assets Not Being Depreciated	1,470,176	6,724,121	3,725,497	11,919,794	-
Assets Being Depreciated, Net	1,210,138	101,091,165	26,727,956	129,029,259	-
Total Assets	<u>3,316,739</u>	<u>107,912,140</u>	<u>32,888,017</u>	<u>144,116,896</u>	<u>684,654</u>
<b>Liabilities</b>					
Current:					
Warrants Payable	3,437	253,158	19,544	276,139	-
Accrued Wages Payable	4,164	14,326	16,584	35,074	-
Incurred But Not Received Health Payable	-	-	-	-	488,052
Accrued Interest Payable	-	90,513	339,421	429,934	-
Bond Anticipation Notes Payable	-	2,115,000	2,205,000	4,320,000	-
Bonds Payable	-	825,679	1,385,800	2,211,479	-
Noncurrent:					
Compensated Absences	17,107	122,416	91,227	230,750	-
Bonds Payable	-	6,627,261	19,129,387	25,756,648	-
Total Liabilities	<u>24,708</u>	<u>10,048,353</u>	<u>23,186,963</u>	<u>33,260,024</u>	<u>488,052</u>
<b>Net Assets</b>					
Invested in Capital Assets, Net of Related Debt	2,680,314	100,362,346	9,938,266	112,980,926	-
Restricted for:					
Capital Projects	-	-	61,070	61,070	-
Unrestricted	611,717	(2,498,559)	(298,282)	(2,185,124)	196,602
Total Net Assets	<u>\$ 3,292,031</u>	<u>\$ 97,863,787</u>	<u>\$ 9,701,054</u>	<u>\$ 110,856,872</u>	<u>\$ 196,602</u>

City of Gloucester, Massachusetts  
Statement of Revenues, Expenses and Changes in Fund Net Assets  
Proprietary Funds  
Fiscal Year Ended June 30, 2006

	<u>Business - Type Activities</u>				Health Insurance Internal Service Fund
	<u>Waterways Fund</u>	<u>Sewer Fund</u>	<u>Water Enterprise</u>	<u>Total Enterprise</u>	
Operating Revenues:					
Charges for Services	\$ 158,886	\$ 3,536,502	\$ 4,772,311	\$ 8,467,699	\$ -
Excises	133,041	-	-	133,041	-
Other Operating	24,253	16,831	52,774	93,858	-
Employer and Employee Contributions	-	-	-	-	10,788,417
Total Operating Revenues	<u>316,180</u>	<u>3,553,333</u>	<u>4,825,085</u>	<u>8,694,598</u>	<u>10,788,417</u>
Operating Expenditures:					
Personal Services	145,521	1,040,690	1,461,610	2,647,821	-
Nonpersonal Services	58,679	2,694,263	2,240,024	4,992,966	10,903,759
Depreciation	77,306	2,533,957	550,322	3,161,585	-
Total Operating Expenditures	<u>281,506</u>	<u>6,268,910</u>	<u>4,251,956</u>	<u>10,802,372</u>	<u>10,903,759</u>
Operating Income	<u>34,674</u>	<u>(2,715,577)</u>	<u>573,129</u>	<u>(2,107,774)</u>	<u>(115,342)</u>
Nonoperating Revenues (Expenses):					
Earnings on Investments	1,550	14,694	(6,369)	9,875	34,048
Interest on Debt	-	(318,452)	(967,314)	(1,285,766)	-
Total Nonoperating Revenues (Expenses)	<u>1,550</u>	<u>(303,758)</u>	<u>(973,683)</u>	<u>(1,275,891)</u>	<u>34,048</u>
Income Before Contributions and Transfers	<u>36,224</u>	<u>(3,019,335)</u>	<u>(400,554)</u>	<u>(3,383,665)</u>	<u>(81,294)</u>
Transfers In - Capital Assets	57,756	-	-	57,756	-
Transfers In	-	384,536	244,129	628,665	-
Total Capital Contributions and Transfers	<u>57,756</u>	<u>384,536</u>	<u>244,129</u>	<u>686,421</u>	<u>-</u>
Change in Net Assets	<u>93,980</u>	<u>(2,634,799)</u>	<u>(156,425)</u>	<u>(2,697,244)</u>	<u>(81,294)</u>
Total Net Assets July 1, 2005	<u>3,198,051</u>	<u>101,171,874</u>	<u>10,382,684</u>	<u>114,752,609</u>	<u>277,896</u>
Prior Period Adjustment	-	(673,288)	(525,205)	(1,198,493)	-
Total Net Assets June 30, 2006	<u>\$3,292,031</u>	<u>\$ 97,863,787</u>	<u>\$ 9,701,054</u>	<u>\$110,856,872</u>	<u>\$ 196,602</u>

City of Gloucester, Massachusetts  
Statement of Cash Flows  
Proprietary Fund  
Fiscal Year Ended June 30, 2006

	Waterways Fund	Sewer Fund	Water Fund	Total
Cash Flows from Operating Activities:				
Receipts from Customers	\$ 250,198	\$ 2,661,193	\$ 3,738,968	\$ 6,650,359
Payments to Employees	(143,794)	(953,434)	(1,442,450)	(2,539,678)
Payments to Vendors	(62,836)	(2,867,993)	(2,470,700)	(5,401,529)
Net Cash Flows Provided (Used) by Operating Activities	43,568	(1,160,234)	(174,182)	(1,290,848)
Cash Flows from Non Capital Related Financing Activities:				
Net Transfers to/from Other Funds	-	384,536	244,129	628,665
Net Cash Flows Provided (Used) by Non Capital Related Financing Activities	-	384,536	244,129	628,665
Cash Flows from Capital and Related Financing Activities:				
Acquisition of Capital Assets	-	(4,846,015)	(1,296,051)	(6,142,066)
Proceeds from Bond Anticipation Notes	-	2,115,000	2,205,000	4,320,000
Proceeds from Bonds	-	1,374,000	5,147,000	6,521,000
Principal Payments on Notes and Bonds	-	(2,421,904)	(8,083,157)	(10,505,061)
Interest Expense	-	(317,696)	(920,951)	(1,238,647)
Net Cash Flows Provided (Used) by Capital and Related Financing Activities	-	(4,096,615)	(2,948,159)	(7,044,774)
Cash Flows from Investing Activities:				
Earnings on Investments	1,550	14,694	(6,369)	9,875
Net Cash Flows Provided (Used) by Investing Activities	1,550	14,694	(6,369)	9,875
Net Increase (Decrease) in Cash and Cash Equivalents	45,118	(4,857,619)	(2,884,581)	(7,697,082)
Cash and Cash Equivalents, July 1, 2005	369,032	4,286,509	3,749,089	8,404,630
Capital Project from Governmental Funds	-	(593,000)	-	(593,000)
Cash and Cash Equivalents, June 30, 2006	<u>\$ 414,150</u>	<u>\$ (1,164,110)</u>	<u>\$ 864,508</u>	<u>\$ 114,548</u>
Reconciliation of Net Income to Net Cash Provided (Used) by Operating Activities:				
Operating Income (Loss)	34,674	(2,715,577)	573,129	(2,107,774)
Adjustments to Reconcile Operating Income to Net Cash Provided (Used) by Operating Activities:				
Depreciation Expense	77,306	2,533,957	550,322	3,161,585
(Increase) Decrease in Assets:				
Accounts Receivable - Customer	(65,982)	(892,140)	(1,086,117)	(2,044,239)
Increase (Decrease) in Liabilities:				
Warrants and Accounts Payable	(2,430)	(86,474)	(211,516)	(300,420)
Net Cash Provided by Operating Activities	<u>\$ 43,568</u>	<u>\$ (1,160,234)</u>	<u>\$ (174,182)</u>	<u>\$ (1,290,848)</u>

City of Gloucester, Massachusetts  
Fiduciary Funds  
Statement of Net Assets  
June 30, 2006

	Private-Purpose <u>Trust</u>
<b>Assets</b>	
Cash and Cash Investments	\$ 677,940
Total Assets	<u>677,940</u>
<b>Liabilities</b>	<u>-</u>
Total Liabilities	<u>-</u>
<b>Net Assets</b>	
Held in Trust	<u>\$ 677,940</u>

City of Gloucester, Massachusetts  
Fiduciary Funds  
Statement of Changes in Net Assets  
Fiscal Year Ended June 30, 2006

	Private-Purpose <u>Trust</u>
Additions:	
Gifts	\$ 1,304
Earnings on Investments	<u>36,600</u>
Total Additions	<u>37,904</u>
Deductions:	
Change in Net Assets	<u>37,904</u>
Net Assets:	
Beginning of the Year	<u>640,036</u>
Ending of the Year	<u><u>\$ 677,940</u></u>

City of Gloucester, Massachusetts  
Notes to the Financial Statements  
June 30, 2006

**I. Summary of Significant Accounting Policies**

The accounting policies of the City of Gloucester, Massachusetts, as reflected in the accompanying financial statements for the year ended June 30, 2006, conform to accounting principles generally accepted in the United States of America for local government units, except as indicated hereafter. In accounting and reporting on its enterprise fund, the City has elected to apply all Governmental Accounting Standards Board ("GASB") pronouncements as well as Financial Accounting Standards Board pronouncements issued prior to November 30, 1989, unless those pronouncements contradict GASB pronouncements, in which case, GASB prevails.

The more significant accounting policies of the City are summarized below.

**(A) Reporting Entity**

The City's reporting entity consists of all organizations for which the City exercises oversight responsibility. Oversight responsibility is demonstrated by financial interdependency, selection of governing authority, designation of management, ability to significantly influence operations and accountability for fiscal matters.

The City has elected to exclude its only component unit (the Gloucester Contributory Retirement System). As a result, the accompanying financial statements are for the primary government.

**(B) Government-wide and fund financial statements**

The **government-wide financial statements** (i.e., the **statement of net assets** and the **statement of activities**) report information on all of the non-fiduciary activities of the primary government and its component units. For the most part, the effect of the interfund activity has been removed from these statements. Government activities, which normally are supported by taxes and intergovernmental revenues, are reported separately from business-type activities, which rely to a significant extent on fees and charges for support.

The statement of activities demonstrates the degree to which the direct expenses of a given function or segment are offset by program revenues. Direct expenses are those that are clearly identifiable with a specific function or segment. Program revenues include 1) charges to customers or applicants who purchase, use, or directly benefit from goods, services, or privileges provided by a given function or segment and 2) grants and contributions that are restricted to meeting the operational or capital requirements of a particular function or segment. Taxes and other items not properly included among program revenues are reported instead as general revenues.

Separate financial statements are provided for governmental funds, proprietary funds and fiduciary funds, even though the latter are excluded from the government-wide financial statements. Major individual governmental funds are reported as separate columns in the fund financial statements.



(C) Measurement Focus, Basis of Accounting, and Financial Statement Presentation

The government-wide financial statements are reported using the economic resources measurement focus and the accrual basis of accounting, as are the fiduciary fund financial statements. Revenues are recorded when earned and expenses are recorded when a liability is incurred, regardless of the timing of related cash flows. Property taxes are recognized as revenues in the year for which they are levied. Grants and similar items are recognized as revenue as soon as all eligibility requirements imposed by the provider have been met.

Governmental fund financial statements are reported using the current financial resources measurement focus and the modified accrual basis of accounting. These revenues are recognized when they become measurable and available as net current assets. Available means collectible within the current period or soon enough thereafter to be used to pay liabilities of the current period. Primary sources of revenue considered susceptible to accrual consist principally of real estate and personal property taxes, motor vehicle excise tax and amounts due under grants. Property taxes are recognized as revenue in the year for which taxes have been levied, provided they are collected within 60 days after year end. Revenues not considered susceptible to accrual are recognized when received.

Water and sewer charges as presented are considered revenue when they are committed for collection. Recognition has not been considered for unbilled usage in the government wide and the fund financial statements.

Expenditures are generally recognized under the modified accrual basis of accounting when the related fund liability is incurred. Exceptions to this general rule include: (1) accumulated vacation, accumulated sick pay, and other employee amounts which are not to be liquidated from expendable and available resources; and (2) debt service expenditures which are recognized when due.

Agency fund assets and liabilities are accounted for on the modified accrual basis of accounting.

The City reports the following major governmental funds:

**General Fund** – This is the City's general operating fund. It accounts for all financial resources of the general government except those required to be accounting for in another fund.

**Betterment Fund** – This fund captures the revenues for all phases of the sewer betterments. The revenues are transferred to the general fund to help meet the City's betterment related debt obligation.

The City reports the following major proprietary funds:

**Water Fund** – This fund is used to account for the activities related to the water distribution system.

**Sewer Fund** – This fund is used to account for sewer related activities.

**Waterways Fund** – This fund is used to account for the activities associated with the City's harbor.

(D) Assets, Liabilities and Net Assets or Equity

i Deposits and Investments

The City's cash and cash equivalents are considered to be demand deposits and short term investments with original maturities of three months or less from the date of acquisition.

State and local statutes place certain limitations on the nature of deposits and investments available to the City. Deposits (including demand deposits, term deposits and certificates of deposit) in any one financial institution may not exceed certain prescribed levels without collateralization by the financial institutions involved. Investments can also be made in securities issued by or unconditionally guaranteed by the U.S. government or agencies that have a maturity of less than one year from the date of purchase, repurchase agreements guaranteed by such securities with maturity dates of not more than 90 days from the date of purchase, and units in the Massachusetts Municipal Depository Trust ("MMDT").

Also, certain governmental funds (primarily trust funds) have broader investment powers which allow investments in common stocks, corporate bonds and other types of investments.

ii Property Taxes

The City's fiscal year runs from July 1 to June 30. Taxes are levied to the owner of record on the preceding January 1. The City bills property taxes on a quarterly basis. Quarterly payments are due on August 1, November 1, February 1 and May 1. Property taxes attach as enforceable liens on property as of July 1 of the next fiscal year.

The City is permitted under state law to levy property taxes up to 2.5% of the full and fair cash value of the property. In addition, the law limits the amount by which the total property tax assessment can be increased to 2.5% of the preceding year's assessment plus any new growth.

iii Capital Assets

Capital assets, which include property, plant, equipment, and infrastructure assets are reported in the applicable governmental or business-type activities columns in the government-wide financial statements. Capital assets are defined by the City as assets with an initial, individual cost of more than \$5,000 and an estimated useful life in excess of two years. Such assets are recorded at historical cost or estimated historical cost if purchased or constructed. Donated capital assets are recorded at estimated fair market value at the date of donation.

The City has not included the infrastructure assets (roads and sidewalks) related to the governmental activities.

The cost of normal maintenance and repairs that do not add to the value of the asset or materially extend assets lives are not capitalized.

Major outlays for capital assets and improvements are capitalized as projects are constructed. Interest incurred during the construction phase of capital assets of business-type activities is included as part of the capitalized value of the assets constructed.

Property, plant, and equipment of the primary government is depreciated using the straight line method over the following estimated useful lives:

<u>Assets</u>	<u>Years</u>
Buildings	40-50

Equipment	5-15
Improvements	20-40
Infrastructure	40-50
Vehicles	5-15

iv Compensated Absences

The liabilities for compensated absences reported in the government-wide and proprietary fund statements consists of unpaid, accumulated annual vacation and sick leave benefits. The liabilities have been calculated using the vesting method, in which leave amounts for both employees who currently are eligible to receive termination payments and other employees who are expected to become eligible in the future to receive such payments upon termination are included.

v Long-Term Obligations

In the government-wide financial statements, and proprietary fund types in the fund financial statements, long-term debt and other long-term obligations are reported as liabilities.

In the fund financial statements, governmental fund types recognize bond premiums and discounts, as well as bond issuance costs, during the current period. The face amount of debt issued is reported as other financing sources. Issuance costs are reported as debt service expenditures.

vi Fund Equity

In the fund financial statements, governmental funds report reservations of fund balance for amounts that are not available for appropriation or are legally restricted by outside parties for use for a specific purpose. Designations of fund balance represent tentative management plans that are subject to change.

In the fund financial statements fund equity is comprised of the following:

Fund Balances

(a) Reserved for Encumbrances

Appropriations for certain projects and specific items not fully expended at year end are carried forward as reserved for encumbrances to the next year. At year end, reserved for encumbrances is reported as a component of fund balance.

(b) Reserved for Debt Service

The balance in this account represents betterment revenues that will be used to fund betterment related debt.

(c) Reserved for Perpetual Permanent Funds

This account represents the principal portion of cash invested in the nonexpendable trust funds. Only the income earned from investing these funds can be expended for purposes specified in the trust instrument.

(d) Fund Balance Deficits

The City had fund balance deficits as of June 30, 2006. The fund balance accounts and the reasons for the deficits (if known) are identified below:

Government Activities

Non Major

Special Revenue

<u>Account</u>	<u>Balance</u>	<u>Reason</u>
Chapter 90 Grant	\$332,683	Timely request for reimbursement not made
2000 IEP	4,200	
1999 School to Work	91	
Title II Improved Education Quality	4,203	
Title I	17,913	
Occupational Ed-Vocational Skills	7,120	
Emergency Kids in Crisis	5,059	
School Restitution	2,448	
School Choice	3,391	
PWED/EDIC	18,811	
2005 Traffic Enforcement	4,234	
2004 Fire Police MEMA	281	
Fund Balance Dep Water Access	1,398	
Fund Balance System Install	99	
Assistance to Firefighter	3,135	Revenues received in February 2006
Insurance Reimbursement - 20k Police	809	
Police SH Drug Enforcement	1,136	
Donation - Veterans	2,931	
Annisquam Watershed	5,100	
Fire and Police Detail	111,274	

Capital Projects Fund

Board of Health - Water Abatement	\$2,525,062	Deficit partially offset by \$1,259,391 BAN
CIP 03 Municipal Building Renovations	9,104	
CIP 02 City Hall Windows	11,101	
CIP 05 City Hall Roof Repair	126,344	Deficit partially offset by \$50,000 BAN
CIP 05 Klondike Drain/Paving	57,165	Deficit offset by \$65,000 BAN
CIP 04 Bennet Street	117,763	Deficit offset by \$300,000 BAN
CIP 05 Soil Sample/Analysis	12,240	Deficit offset by \$50,000 BAN
Gloucester High School Litigation	125,742	
CIP 05 MIS Software	100,859	Deficit offset by \$150,000 BAN
CIP 06 DPW 1 Ton Trucks	98,000	
CIP 05 High School Roof	898,639	Deficit offset by \$1,000,000 BAN
CIP 00 Gloucester Sewer	526,294	
CIP 00 Harbor Improvements	82,615	
CIP 04 Board of Health Water Pollution Abatement	22,988	
CIP 05 High School Elevator Repairs	9,510	Deficit offset by \$35,000 BAN

## Major Fund

### Betterment Funds

Sewer Betterment MPEW	\$46,137
West Gloucester/Little River	206,775

#### vii Use of Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements. Estimates also affect the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

#### viii Warrants Payable

The balance in this account consists of those warrants approved by the City for payment between July 1, 2006 and July 15, 2006. These warrants have been recorded as expenditures during the fiscal year ended June 30, 2006 and the corresponding credit is to the account entitled warrants payable.

## II Stewardship, Compliance and Accountability

### A. Budgetary Information

#### i General Budget Policies

Budget requests are prepared by the various City departments and submitted to the Mayor and to the Budget and Finance Committee for review during January, February and March of each year. The Mayor and the Budget and Finance Committee have until June (which is when the annual budget is typically approved) to make any changes to the departments' requests. After approval of the budget the tax recapitulation (recap) sheet is prepared. During this process the property tax rate is determined and the recap sheet is sent to the Department of Revenue for approval.

Encumbrance accounting is utilized when purchase orders, contracts or other commitments for purchases are recorded in order to reserve that portion of the applicable appropriations. Encumbrances still open at year end are reported as a reservation of fund balance. Encumbrances do not constitute expenditures or liabilities.

### B. Deposits and Investments

#### i.) Deposits

##### a.) Custodial Credit Risk - Deposits

Custodial Credit Risk is the risk that in the event of a bank failure, the City's deposits may not be returned to it. The City does not have a formal deposit policy for custodial credit risk. As of June 30, 2006, \$2,015,504 of the City's bank balance of \$18,900,386 was exposed to credit risk as follows:

Uninsured and Uncollateralized	<u>\$2,015,504</u>
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B. Deposits and Investments (Continued)

ii.) Investments

a.) As of June 30, 2006, the City had the following investments and maturities.

<u>Investment Type</u>	<u>Fair Value</u>	<u>Investment Maturities (in Years)</u>	
		<u>Less Than 1</u>	<u>1-5</u>
U. S. Government Obligations	\$ 543,970	\$ 64,392	\$ 479,578
Corporate Bonds	<u>114,102</u>	<u>114,102</u>	<u>-</u>
Total	<u>\$ 658,072</u>	<u>\$ 178,494</u>	<u>\$ 479,578</u>

b.) Interest Rate Risk

Interest rate risk is the risk that changes in interest rates will adversely affect the fair value of an investment. The City does not have a formal policy that limits investment maturities as a means of managing its exposure to fair value losses arising from increasing interest rates.

c.) Credit Risk

Credit risk is the risk that an issuer or other counterparty to an investment will not fulfill its obligations. The Commonwealth of Massachusetts has an investment "legal list" which the City is required to follow. However, the City does not have its own formal policy regarding credit risk.

d.) Concentration of Credit Risk

Concentration of credit risk is the risk of loss attributed to the magnitude of a government's investment in a single issuer. The City does not have a formal policy regarding concentration risk. More than 5 percent of the City's investments are in U.S. Government Obligations 36%.

C. Capital Assets

Capital asset activity for the year ended June 30, 2006 was as follows:

	<u>Beginning Balance</u>	<u>Additions</u>	<u>Reductions/ Reclassifications</u>	<u>Ending Balance</u>
Government Activities:				
Land	\$ 17,701,783	\$ -	\$ -	\$ 17,701,783
Construction in Progress	<u>4,765,696</u>	<u>1,142,037</u>	<u>(4,512,124)</u>	<u>1,395,609</u>
Total Capital Assets not Being Depreciated	<u>22,467,479</u>	<u>1,142,037</u>	<u>(4,512,124)</u>	<u>19,097,392</u>
Assets Being Depreciated:				
Buildings	55,360,678	14,159	-	55,374,837
Improvements	3,153,229	16,576	-	3,169,805
Infrastructure	7,184,285	5,170,828	-	12,355,113
Equipment	6,991,742	173,012	-	7,164,754
Vehicles	5,997,758	1,003,775	-	7,001,533
Other	<u>136,597</u>	<u>201,674</u>	<u>313,964</u>	<u>652,235</u>
Total Capital Assets Being Depreciated	<u>78,824,289</u>	<u>6,580,024</u>	<u>313,964</u>	<u>85,718,277</u>

C. Capital Assets (Continued)

	<u>Beginning Balance</u>	<u>Additions</u>	<u>Reductions/ Reclassifications</u>	<u>Ending Balance</u>
Less Accumulated Depreciation for:				
Buildings	(18,847,346)	(2,281,041)	-	(21,128,387)
Improvements Other Than Buildings	(1,231,996)	(152,669)	-	(1,384,665)
Infrastructure	(215,233)	(195,757)	-	(410,990)
Equipment	(5,419,359)	(291,168)	-	(5,710,527)
Vehicles	(4,446,394)	(338,314)	-	(4,784,708)
Other	(103,395)	(38,025)	-	(141,420)
Total Accumulated Depreciation	<u>(30,263,723)</u>	<u>(3,296,974)</u>	<u>-</u>	<u>(33,560,697)</u>
Capital Assets Being Depreciated, Net	<u>48,560,566</u>	<u>3,283,050</u>	<u>313,964</u>	<u>52,157,580</u>
Governmental Activities Capital Assets, Net	<u>\$ 71,028,045</u>	<u>\$ 4,425,087</u>	<u>\$ (4,198,160)</u>	<u>\$ 71,254,972</u>

Depreciation expense was charged to functions as follows:

Government Activities:	
General Government	\$ 136,940
Public Safety	247,044
Education	2,305,436
Highways and Public Works	496,065
Culture and Recreation	111,489
Total Governmental Activities Depreciation Expense	<u>\$ 3,296,974</u>

	<u>Beginning Balance</u>	<u>Additions</u>	<u>Reductions/ Reclassifications</u>	<u>Ending Balance</u>
Business-Type Activities:				
Land	\$ 4,512,584	\$ -	\$ -	\$ 4,512,584
Construction in Progress	22,123,980	4,277,841	(18,994,611)	7,407,210
Total Capital Assets not Being Depreciated	<u>26,636,564</u>	<u>4,277,841</u>	<u>(18,994,611)</u>	<u>11,919,794</u>
Assets Being Depreciated:				
Buildings	4,237,807	-	-	4,237,807
Improvements	1,277,234	22,259	-	1,299,493
Infrastructure	136,022,420	1,899,722	18,994,611	156,916,753
Equipment	966,610	-	-	966,610
Vehicles	750,736	-	-	750,736
Other	15,000	-	-	15,000
Total Capital Assets Being Depreciated	<u>143,269,807</u>	<u>1,921,981</u>	<u>18,994,611</u>	<u>164,186,399</u>

C. Capital Assets (Continued)

	Beginning <u>Balance</u>	<u>Additions</u>	Reductions/ <u>Reclassifications</u>	Ending <u>Balance</u>
Less Accumulated Depreciation for:				
Buildings	(3,518,239)	(95,943)	-	(3,614,182)
Improvements	(92,785)	(64,886)	-	(157,671)
Infrastructure	(27,157,281)	(2,931,147)	-	(30,088,428)
Equipment	(687,864)	(43,887)	-	(731,751)
Vehicles	(534,887)	(22,721)	-	(557,608)
Other	(4,500)	(3,000)	-	(7,500)
Total Accumulated Depreciation	<u>(31,995,556)</u>	<u>(3,161,584)</u>	<u>-</u>	<u>(35,157,140)</u>
Capital Assets Being Depreciated, Net	<u>111,274,251</u>	<u>(1,239,603)</u>	<u>18,994,611</u>	<u>129,029,259</u>
Business-Type Activities Capital Assets, Net	<u>\$ 137,910,815</u>	<u>\$ 3,038,238</u>	<u>\$ -</u>	<u>\$ 140,949,053</u>

Depreciation expense was charged to business-type activities as follows:

Business-type Activities:	
Waterways	\$ 77,306
Sewer	2,533,957
Water	550,322
Total Business-type Activities Depreciation Expense	<u>\$ 3,161,585</u>

D. Accounts Receivable

The accounts receivable on the combined balance sheet are listed below by levy.

Governmental Activities

Current Accounts Receivable

Property Taxes Receivable:

Real Estate Taxes

2006	\$ 1,231,550
2005	132,192
Total Real Estate Taxes	<u>\$ 1,363,742</u>

Personal Property Taxes

2006	88,933
2005	16,215
2004	10,276
2003	9,759
2002	12,165
2001	21,477



D. Accounts Receivable (Continued)

2000	17,395	
1999	20,042	
1998	25,914	
1997	20,459	
1996	19,252	
1995	19,937	
1994	23,943	
Total Personal Property Taxes	<u>305,767</u>	
Total Property Taxes Receivable		<u>\$ 1,669,509</u>
Tax Liens		<u>\$ 1,426,039</u>
Excise Taxes:		
Motor Vehicle Excise Tax		
2006	\$ 237,153	
2005	55,436	
2004	40,341	
2003	33,141	
2002	30,239	
2001	33,007	
2000	20,061	
1999	16,225	
1998	15,940	
1997	18,486	
1996	20,251	
1995	14,292	
1994	11,320	
Total Excise Receivable	<u>545,892</u>	<u>\$ 545,892</u>
Departmental		
Ambulance	\$ 697,664	
Due from Blue Cross	79,600	
Total Departmental	<u>777,264</u>	<u>\$ 777,264</u>

D. Accounts Receivable (Continued)

Intergovernmental:

Commonwealth of Massachusetts - School Building Assistance	\$ 1,521,458
Commonwealth of Massachusetts - Highway Projects	1,923,757
Commonwealth of Massachusetts - Other	65,000
Federal Government Emergency	<u>326,744</u>
Total Current Intergovernmental	<u><u>\$ 3,836,959</u></u>

Special Assessments:

Sewer Betterments	\$ 78,781
Septic	<u>4,179</u>
Total Current Special Assessments	<u><u>\$ 82,960</u></u>

Non Current Accounts Receivable:

Intergovernmental:

Commonwealth of Massachusetts - for School Building Assistance	<u><u>\$ 14,475,155</u></u>
Deferred Property Taxes	<u><u>\$ 84,512</u></u>
Noncurrent Deferred Special Assessments	<u><u>\$ 15,787,176</u></u>
Revolving Loans:	
Loans Made from U.S HUD Grant	<u><u>\$ 703,402</u></u>

D. Accounts Receivable (Continued)

**Business-Type Activities**

Excises:

Boat Excise Taxes

2006	\$ 27,751
2005	8,057
2004	4,270
2003	6,368
2002	9,747
2001	10,683
2000	11,928
1999	17,859
1998	14,626
1997	15,039
1996	12,374
1995	9,986
1994	11,876
1993	13,782
1992	21,035
1991 and Prior	<u>17,784</u>

Total Excise Receivable	<u><u>\$ 213,166</u></u>
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Departmental

Recreation Lobster Marina

<u>\$ 9,109</u>
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Total Departmental

<u><u>\$ 9,109</u></u>
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User Charges:

Sewer Meter 2006	\$ 1,068,144
Sewer Meter 2005	142,773
Sewer Fixtures 2006	10,467
Sewer Fixtures 2005	3,328
Water Meter 2006	1,340,627
Water Meter 2005	141,016
Water Fixtures 2006	15,350
Water Fixtures 2005	<u>23,174</u>

Total User Charges

<u><u>\$ 2,744,879</u></u>
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D. Accounts Receivable (Continued)

Utility Liens:

Sewer Liens 2005	\$ 10,049
Sewer Title	26,198
Water Liens 2005	8,626
Water Title	<u>41,268</u>

Total Utility Liens	<u>\$ 86,141</u>
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E. Debt

Short Term Debt

The short term debt activity for the year was as follows:

	Balance Beginning of Year	Issued	Redeemed	Balance End of Year
<b><u>Governmental Activities:</u></b>				
Bond Anticipation Notes	\$9,421,000	\$3,682,391	\$9,421,000	\$3,682,391
State Aid Anticipation Notes	800,000	0	800,000	0
<b><u>Business Type Activities</u></b>				
Bond Anticipation Notes	8,563,000	4,320,000	8,563,000	4,320,000

The Town has various short term notes outstanding as of June 30, 2006 as follows:

<u>Purpose</u>	<u>Amount</u>
<b><u>Governmental Activities:</u></b>	
<b><u>Bond Anticipation Notes</u></b>	
Blackburn Road Expansion	\$200,000
Financial Management System	150,000
City Hall Roof	50,000
Rink Dehumidifier	273,000
Upgrade Fire Alarms	105,000
GHS Elevator	35,000
School Fire Doors	72,000
Gloucester High School Roof	1,000,000
Klondike Draining and Paving	65,000
Bennett Street Road	300,000
Soil Analysis	50,000
Board of Health	1,259,391
DPW Trucks	98,000
American Disabilities Act	25,000
Total	<u>\$3,682,391</u>

E. Debt (Continued)

**Business Type Activities:**

Bond Anticipation Notes

**Sewer Fund:**

Infiltration/Inflow	\$160,000
Additional Sewer	705,000
Wpc Facility	750,000
CSO Consent WWP	500,000

**Water Fund:**

Little River	140,000
Klondike	165,000
Water Lines - Manolia	900,000
Water Valve Replacement	1,000,000
Total	<u>\$4,320,000</u>

ii Long Term Debt

General obligation bonds outstanding at June 30, 2006, bear interest at various rat

(a) Changes in Long Term Debt - the following is a summary of bond transactions for the year ended June 30, 2006

	Governmental <u>Activities</u>	Business-type <u>Activities</u>	<u>Total</u>
Balance 7/01/05	\$72,589,079	\$23,389,188	\$95,978,267
Add: New Issues	7,633,496	6,521,000	14,154,496
Less: Maturities	<u>(5,471,868)</u>	<u>(1,942,061)</u>	<u>(7,413,929)</u>
Balance 6/30/06	<u>\$74,750,707</u>	<u>\$27,968,127</u>	<u>\$102,718,834</u>

(b) Summary of Debt Service Requirements to Maturity

	Governmental <u>Activities</u>		Business-type <u>Activities</u>	
	<u>Principal</u>	<u>Interest</u>	<u>Principal</u>	<u>Interest</u>
2007	\$5,999,761	\$3,281,150	\$2,197,571	\$1,114,721
2008	6,074,549	2,985,961	2,180,135	996,708
2009	6,146,163	2,733,880	2,165,460	915,063
2010	6,092,819	2,466,457	1,814,386	840,227
2011	6,016,325	2,197,165	1,738,569	771,493
2012-2016	28,714,234	6,700,432	7,908,820	2,843,135
2017-2021	13,739,869	1,413,339	6,734,877	1,278,060
2022-2026	<u>1,966,987</u>	<u>45,195</u>	<u>3,228,309</u>	<u>234,335</u>
	<u>\$74,750,707</u>	<u>\$21,823,579</u>	<u>\$27,968,127</u>	<u>\$8,993,742</u>

E. Debt (Continued)

Subsidies through the Massachusetts Water Pollution Abatement Trust

The Massachusetts Water Pollution Abatement Trust was created by Chapter 275 of the acts of 1989 to implement the State Revolving Fund Program (SRF) contemplated by the Title VI of the Federal Clean Water Act.

The Trust administers an SRF program which includes both a federal and state capitalized revolving fund. Loans are made from the fund to local governmental units to finance the costs of eligible water pollution abatement programs.

Local governments obtain financing through the SRF and receive subsidies but are obligated for the entire amount of the debt. The City has bonded eight issues through the program. Subsidies which will be utilized to offset debt service costs disclosed in the summary above are noted below:

	Government <u>Activities</u>	Business-type <u>Activities</u>
	<u>SRF</u>	<u>SRF</u>
2007	\$1,039,891	\$14,142
2008	1,000,726	13,609
2009	968,688	13,051
2010	927,223	12,471
2011	886,002	11,868
2012-2016	3,717,475	46,933
2017-2021	<u>2,211,022</u>	<u>5,576</u>
Total Subsidies	<u>\$10,751,027</u>	<u>\$117,650</u>

Section 108 Revolving Loan Fund

The City has established a revolving loan program funded by a loan guaranteed by the U.S. Department of Housing and Urban Development. The City has issued loans as disclosed in the financial statements. Loan repayments can be used to repay the City's bond payable. The revolving loans made by the City do not coincide with the Section 108 loan amortization schedule.

E. Debt (Continued)

(c) Bond Authorizations

Long-term debt authorizations voted by the City which have not been issued or rescinded as of June 30, 2006, are as follows:

<u>Date Authorized</u>	<u>Purpose</u>	<u>Amount</u>
10/05/88	North Gloucester Sewer Phase 1	\$2,935,812
08/01/89	Engineering Services	50,000
08/01/89	Remodeling	60,000
08/02/89	North Gloucester Sewer Phase 1	2,139,600
08/13/89	Asbestos Remodel	85,000
04/07/92	Outfall Extension	105,000
12/08/92	Water Filtration Roof	50,000
12/09/92	North Gloucester Sewer Phase 2	109,560
02/20/96	North Gloucester Sewer Phase 3	48,392
12/10/96	Sewer Experimental Area Planning	100,000
04/08/97	Septic Title V	1,328,548
05/13/97	North Gloucester Sewer Phase 4 (\$375K Ph3)	85,134
09/04/97	Water (No. Glou Ph 5)	425
12/10/98	North Gloucester Sewer - Phase 5	194,484
09/05/00	West Gloucester Draing and Paving	30,000
08/01/01	School Remodeling	31,190
10/23/01	Public Walkway Goose Cove Construction	730,000
04/18/02	Water Little River (Cole/Linwood)	140,000
01/21/03	Magnolia	900,000
04/15/03	Refunding	4,500,000
08/19/03	Rink Dehumidifier	273,000
09/16/03	Septic Title V	5,000,000
02/04/04	Financial Management System	150,000
02/18/04	Infiltration/Inflow	310,000
03/03/04	Water Valve	1,500,000
04/13/04	Bennet St. Road Improvement	300,000
07/24/04	GH/KC/LE/West Sewer	705,500
09/24/04	Blackburn Road	200,000
10/05/04	Quarry St Pavine/Drain	65,000
10/05/04	Klondike Water	165,000
11/30/04	DPW Soil Study	50,000
11/30/04	City Hall Roof	175,000
12/14/04	W W Treatment Plant	2,000,000
02/01/05	GHS Roof	1,000,000
02/15/05	GHS Elevator	35,000
02/15/05	School Fire Alarms	105,000

E. Debt (Continued)

<u>Date Authorized</u>	<u>Purpose</u>	<u>Amount</u>
02/15/05	School Fire Doors	72,000
08/23/05	CSO	27,025,000
08/23/05	CSO Surface	2,100,000
08/23/05	CSO Water	1,975,000
09/20/05	DPW Vehicles	205,000
11/13/05	DPW 1 Tons	98,000
12/03/05	Seawall	500,000
02/21/06	ADA	25,000
04/15/06	Municipal Software	50,000
Total		<u>\$57,706,645</u>

Subsequent to the balance sheet date, November 28, 2006, the City has approved a total of \$1,305,000 in long term debt authorizations.

iii Refunding of Long Term Debt

On July 15, 1998, the City issued \$4,540,000 of General Obligations Refunding Bonds with an average interest rate of 4.48% to advance refund \$4,195,000 of outstanding debt with an average interest rate of 7.0%. The net proceeds (after payment of underwriting fees, insurance and other issuance costs) were used to purchase U.S. government securities. Those securities were deposited in an irrevocable trust with an escrow agent to provide for all future debt service payments on the refunded bonds. As a result, the refunded bonds are considered to be defeased.

(a) Changes in Cash Flow Requirements

<u>Fiscal Year</u>	<u>Existing Debt Principal &amp; Interest</u>	<u>Refunding Bonds Principal &amp; Interest</u>
2007	\$501,385	\$498,460
2008	473,565	469,550
2009	182,070	440,772
2010	263,675	246,098
2011	247,925	220,376
2012	<u>222,525</u>	<u>0</u>
	<u>\$1,891,145</u>	<u>\$1,875,256</u>



E. Debt (Continued)

(b) Economic Gain from Refunding Issue

The net present value benefit as a result of the refunding issue is \$344,882.

iv Refunding of Long Term Debt

On September 15, 2003 the City issued \$3,905,000 of General Obligations Refunding Bonds with an average interest rate of 3.75% to advance refund \$3,600,000 of outstanding debt with an average interest rate of 5.5%. The net proceeds (after payment of underwriting fees, insurance and other issuance costs) were used to purchase U.S. government securities. Those securities were deposited in an irrevocable trust with an escrow agent to provide for all future debt service payments on the refunded bonds. As a result, the refunded bonds are considered to be defeased.

(a) Changes in Cash Flow Requirements

	Existing Debt Principal & Interest	Refunding Bonds Principal & Interest
<u>Fiscal Year</u>		
2007	\$588,256	\$578,644
2008	564,562	554,444
2009	541,187	534,812
2010	493,500	484,003
2011	471,500	462,200
2012	449,500	438,888
2013	427,500	419,300
2014	<u>308,250</u>	<u>300,900</u>
	<u>\$3,844,255</u>	<u>\$3,773,191</u>

(b) Economic Gain from Refunding Issue

The net present value benefit as a result of the refunding issue is \$191,586.

F. Interfund Transfers

The accompanying financial statements reflect transactions between the various funds. These transactions represent operating transfers and do not constitute revenues or expenditures of the funds. Operating transfers made during the year were as follows:

<u>Fund</u>	<u>Transfer In</u>	<u>Transfer (Out)</u>	<u>Total</u>
General	\$ 3,367,446	\$ (27,000)	\$ 3,340,446
Betterment	-	(2,558,366)	(2,558,366)
Non-major Governmental	192,901	(1,603,646)	(1,410,745)
Sewer - Business Type	384,536	-	384,536
Water - Business Type	244,129	-	244,129
Total	<u>\$ 4,189,012</u>	<u>\$ (4,189,012)</u>	<u>\$ -</u>

#### IV Other Information

##### A. Pension Plans

###### (a) Plan Description

The City provides pension benefits to employees by contributing to Gloucester Contributory Retirement System, a cost sharing multiple-employer defined benefit pension plan administered by the Gloucester Contributory Retirement Board. The system provides retirement benefits, cost of living adjustments, disability benefits and death benefits.

The system is a member of the Massachusetts Contributory System and is governed by Chapter 32 of the Massachusetts General Laws (MGL). The authority to establish and amend benefit provisions requires a statutory change to Chapter 32. The Gloucester Contributory Retirement System issues a publicly available financial report that includes financial statements and the required supplementary information. That report may be obtained by writing to the Gloucester Contributory Retirement System, 6 Elm Street, Gloucester, Massachusetts 01930.

###### (b) Funding Plan

Active members of the Gloucester Contributory Retirement System contribute either 5%, 7%, 8% or 9% of their gross regular compensation depending on the date upon which their membership began. An additional 2% is required from employees for earnings in excess of \$30,000. The City is required to pay an actuarially determined rate. The contribution requirements of plan members is determined by M.G.L. Chapter 32. The City's contribution requirement is established and may be amended by the Gloucester Contributory Retirement System with the approval of the Public Employee Retirement Administration Commission.

The City's contributions for the years ending June 30, 2006, 2005 and 2004 were \$4,639,133, \$4,458,555 and \$3,299,172, respectively, equal to 100% of the required contribution each year.

##### B. On Behalf Payments

GASB Statement No. 24, "Accounting and Financial Reporting for Certain Grants and Other Financial Assistance" requires the City to recognize, as income, certain payments made on behalf of the City by the Commonwealth of Massachusetts. Specifically, the Commonwealth makes contributions to a contributory retirement plan administered by the Massachusetts Teachers' Retirement Board (the "State Plan") on behalf of the City's teaching employees. The City is not legally required to contribute to the State Plan, which is fully funded by the Commonwealth.

For the fiscal year ended June 30, 2006, the Commonwealth paid \$5,171,263 to the State Plan on behalf of employees of the City. Accordingly, the accompanying fund financial statements include the required adjustments, which have increased both Intergovernmental revenues and the Education expenditures by the same amount in the fund financial statements and the education expense and program revenue in the government wide financial statements. The net effect of this adjustment does not change the excess of revenues and other financing sources over expenditures and other financing uses for the year ended June 30, 2006, or fund balances at June 30, 2006.

C. Subsequent Year Authorizations

On June 13, 2006, October 3, 2006, October 17, 2006 and November 28, 2006, the City adopted a fiscal 2007 operating and capital budget of \$84,313,880. Fiscal 2007 budgetary amounts which are not reflected in the accompanying financial statements will be financed by the following sources:

2007 Property Taxes, State Aid and Non-Property Tax Revenue	\$ 70,144,915
Enterprise Fund Revenues and Available Funds	10,987,661
Other Available Funds	3,181,304
	<u>\$ 84,313,880</u>

D. Prior Period Adjustments

Entity Wide Statements

Prior period adjustments were made to the entity wide statements as follows:

	<u>Governmental Activities</u>	<u>Business Type Activities</u>
1. Reduce assets previously capitalized	\$ 0	(\$605,493)
2. Reclassify sewer capital project liabilities (Bond Anticipation Notes)/expenses previously charged to the governmental activities	593,000	(593,000)
3. Record asset for dump truck not capitalized in 2005	<u>78,014</u>	<u>0</u>
Total	<u>\$671,014</u>	<u>(\$1,198,493)</u>

Fund Financial Statements

The entries above numbered 1 and 2 were also made in the fund financial statements.

City of Gloucester, Massachusetts  
Schedule of Federal Financial Assistance  
Fiscal Year Ended June 30, 2006  
(Continued on Page 36)

<u>Federal Grantor Program Title</u>	<u>Federal CFDA Number</u>	<u>Expenditures</u>
<u>U.S. Department of Agriculture</u>		
National School Breakfast Program	10.553	\$ 60,557
National School Lunch Program	10.555	319,197
<b>Total U.S. Department of Agriculture</b>		<b>379,754</b>
<u>U.S. Department of Housing and Community Development</u>		
Community Development Block Grant	14.218	1,652,404
Section 108 Loans	14.218	46,060
<b>Total U.S. Housing and Community Development</b>		<b>1,698,464</b>
<u>U.S. Department of Justice</u>		
Community Policing	16.710	71,871
<b>Total U.S. Department of Justice</b>		<b>71,871</b>
<u>U.S. Environmental Protection Agency</u>		
Brownfields Grant	66.811	257,249
<b>Total U.S. Environmental Protection Agency</b>		<b>257,249</b>
<u>U.S. Department of Education</u>		
Title I	84.010	860,690
SPED PL 94-142 Allocation	84.027	961,502
SPED Special Assistance & Mentoring	84.027	2,545
SPED Program Improvements	84.027	20,159
SPED Electronic Portfolio	84.027	1,356
SPED Middle School Reading	84.027	9,803
Secondary Reading	84.027	10,510
Subtotal # 84.027		1,005,875

City of Gloucester, Massachusetts  
Schedule of Federal Financial Assistance  
Fiscal Year Ended June 30, 2006  
(Continued from Page 35)

<u>Federal Grantor Program Title</u>	<u>Federal CFDA Number</u>	<u>Expenditures</u>
Occupational Education - Vocational Skills	84.048	<u>10,661</u>
Title V	84.151	<u>27,035</u>
SPED Early Childhood	84.173	<u>22,322</u>
Emergency Res & Crisis	84.184E	<u>57,314</u>
Safe and Drug-Free Schools	84.186	<u>17,718</u>
Small Learning Community	84.215L	<u>13,994</u>
Enhanced Education Through Technology	84.318	21,398
Technology Enhancement - Options	84.318	<u>113,275</u>
Subtotal # 84.318		<u>134,673</u>
Class Size Reduction	84.340	<u>9,535</u>
Teacher Quality	84.367	<u>174,537</u>
<b>Total U.S. Department of Education</b>		<b><u>2,334,354</u></b>
<u>Federal Emergency Management Agency/Department of Homeland Security</u>		
Hazard Mitigation Grant	97.039	<u>326,753</u>
<b>Total Schedule of Expenditures of Federal Awards</b>		<b><u>\$ 5,068,445</u></b>

City of Gloucester, Massachusetts  
Notes to Schedule of Expenditures of Federal Awards  
June 30, 2006

(1) Scope of Audit

The City of Gloucester, Massachusetts (the City) is a governmental agency established by the laws of the Commonwealth of Massachusetts.

All federal grant operations of the City are included in the scope of the Office of Management and Budget (OMB) Circular A-133, *Audits of States, Local Governments and Non-Profit Organizations*. The single audit was performed in accordance with the provisions of OMB's Circular A-133, *Compliance Supplement*.

(2) Summary of Significant Accounting Policies

The accompanying Schedule of Expenditures of Federal Awards includes all of the federal grant transactions of the City.

Federal grant revenues are recognized in the City's financial statements on the accrual basis for proprietary fund grants. Grant receipts in governmental funds are recorded on the modified accrual basis whereby revenue is recognized when it becomes available and measurable.

Disbursements of federal grant funds are recorded on the accrual basis.

(3) Findings of Noncompliance

The findings of noncompliance identified in connection with the 2006 single audit are disclosed in the Schedule of Findings and Questioned Costs. The status of the findings of noncompliance identified in connection with the 2005 single audit is presented in the Summary of Prior Year's Findings and Questioned Costs.

REPORT ON COMPLIANCE AND ON INTERNAL CONTROL OVER FINANCIAL REPORTING  
BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH  
*GOVERNMENT AUDITING STANDARDS*

Honorable Mayor John Bell  
And City Council  
City Hall  
Dale Avenue  
Gloucester, MA 01930

We have audited the basic financial statements of the City of Gloucester, Massachusetts as of and for the year ended June 30, 2006, and have issued our report thereon dated November 30, 2007. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the City of Gloucester's internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the general purpose financial statements and not to provide assurance on the internal control over financial reporting. However, we noted certain matters involving the internal control over financial reporting and its operation that we consider to be reportable conditions. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control over financial reporting that, in our judgment, could adversely affect the City of Gloucester, Massachusetts' ability to record, process, summarize and report financial data consistent with the assertions of management in the general purpose financial statements. Reportable conditions are described in the accompanying schedule of findings and questioned costs as Items 2006-1 through 2006-10.

A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the general purpose financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control over the financial reporting that might be material weaknesses. However, of the reportable conditions described above, we consider Items 2006-1 through 2006-10 to be material weaknesses. We, also, noted other matters involving the internal control over financial reporting that we have reported to management of the City of Gloucester in a separate letter dated December 7, 2007.

Compliance

As part of obtaining reasonable assurance about whether the City of Gloucester, Massachusetts' basic financial statements are free of material misstatements, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grants, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance that are required to be reported under *Government Auditing Standards*.

This report is intended solely for the information and use of the audit committee, management, others within the organization, and is not intended to be and should not be used by anyone other than these specified parties.

*Giusti, Hingston and Company*

Giusti, Hingston and Company  
Certified Public Accountants  
November 30, 2007



REPORT ON COMPLIANCE WITH REQUIREMENTS APPLICABLE TO EACH MAJOR  
PROGRAM AND INTERNAL CONTROL OVER COMPLIANCE IN ACCORDANCE WITH OMB  
CIRCULAR A-133

Honorable Mayor John Bell  
And City Council  
City Hall  
Dale Avenue  
Gloucester, MA 01930

Compliance

We have audited the compliance of the City of Gloucester, Massachusetts with the types of compliance requirements described in the *U.S. Office of Management and Budget (OMB) Circular A-133 Compliance Supplement* that are applicable to each of its major federal programs for the year ended June 30, 2006. The City of Gloucester, Massachusetts' major federal programs are identified in the summary of auditors' results section of the accompanying schedule of findings and questioned costs. Compliance with the requirements of laws, regulations, contracts and grants applicable to each of its major federal programs is the responsibility of the City of Gloucester's management. Our responsibility is to express an opinion on the City of Gloucester's compliance based on our audit.

We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and OMB Circular A-133, *Audits of States, Local Governments and Non-Profit Organizations*. Those standards and OMB Circular A-133 require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the types of compliance requirements referred to above that could have a direct and material effect on a major federal program occurred. An audit includes examining, on a test basis, evidence about the City of Gloucester's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion. Our audit does not provide a legal determination on the City of Gloucester's compliance with those requirements.

As described in Items III-2006-11, III-2006-12 and 2006-13 in the accompanying schedule of findings and questioned costs, the City of Gloucester, Massachusetts, did not comply with requirements regarding reporting that are applicable to its U.S. Department of Education - PL 94-142 - C.F.D.A. #84.027 and SPED Early Childhood - C.F.D.A. #84.173. Compliance with such requirements is necessary, in our opinion, for the City of Gloucester, Massachusetts, to comply with requirements applicable to these programs.

In our opinion, except for the noncompliance described in the preceding paragraph, the City of Gloucester, Massachusetts, complied, in all material respects, with the requirements referred to above that are applicable to each of its major federal programs for the year ended June 30, 2006.

Internal Control Over Compliance

The management of the City of Gloucester is responsible for establishing and maintaining effective internal control over compliance with requirements of laws, regulations, contracts and grants applicable to federal programs. In planning and performing our audit, we considered the City of Gloucester's internal control over compliance with requirements that could have a direct and material effect on a major federal program in order to determine our auditing procedures for the purpose of expressing our opinion on compliance and to test and report on internal control over compliance in accordance with OMB Circular A-133.

We noted certain matters involving the internal control over compliance and its operation that we consider to be reportable conditions. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control over compliance that, in our judgment, could adversely affect the City of Gloucester, Massachusetts's ability to administer a major federal program in accordance with applicable requirements of laws, regulations, contracts and grants. Reportable conditions are described in the accompanying schedule of findings and questioned costs as Items III-2006-11, III-2006-12 and III-2006-13.

A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that non compliance with applicable requirements of laws, regulations, contracts and grants that would be material in relation to a major federal program being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Our consideration of the internal control over compliance would not necessarily disclose all matters in the internal control that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material weaknesses. However we consider Items III-2006-11, III-2006-12 and III-2006-13 to be a material weaknesses.

This report is intended solely for the information and use of the audit committee, management, others within the organization, federal awarding agencies and pass-through entities and is not intended to be and should not be used by anyone other than these specified parties.

*Giusti, Hingston and Company*

Giusti, Hingston and Company  
Certified Public Accountants  
November 30, 2007

City of Gloucester, Massachusetts  
Schedule of Findings and Questioned Costs  
For the Year Ended June 30, 2006  
(Continued on Page 43)

**I. Summary of Auditors' Results**

1. The opinion on the entity wide governmental funds was adverse because infrastructure assets were not reported. The opinion on the Business-Type activities each major fund and the aggregate remaining fund information was unqualified.
2. Reportable conditions in internal control were reported for the audit period (See findings II-2006-1 through II-2006-10).
3. No instances of noncompliance which were material to the financial statements were reported for the audit period.
4. Reportable conditions in internal controls relating to major programs were reported during the audit (See findings III-2006-11, III-2006-12 and III-2006-13).
5. The opinion on compliance with requirements applicable to major programs was qualified.
6. There were findings related to major federal award programs (See findings III-2006-11, III-2006-12 and III-2006-13).
7. The major programs identified were:
  1. U.S. Department of Agriculture C.F.D.A. #10.553
  2. U.S. Department of Agriculture C.F.D.A. #10.555
  3. U.S. Department of Housing and Urban Development C.F.D.A. #14.218
  4. U.S. Department of Education C.F.D.A. #84.010
  5. U.S. Department of Education C.F.D.A. #84.027
  6. U.S. Department of Education C.F.D.A. #84.173
  7. Federal Emergency Management Agency/Department of Homeland Security C.F.D.A. #97.039
8. The dollar threshold used to distinguish between Type A and Type B programs was \$300,000.
9. The auditee did not qualify as low risk.

**II. Findings – Financial Statement Audit**

**2006-1 Systems of Internal Control**

During fiscal year 2006, the City began the process of converting its financial reporting software. The conversion process did not go well for a variety of reasons. Many of the issues are detailed in this report. However, the most critical area to the City's system of internal control related to the inability to properly report and/or record (in a timely manner) revenues in the accounting system.

Since revenues were not posted or were not posted accurately in the accounting system, substantially all systems of internal control were rendered ineffective. Balances in the grant and revolving accounts could not be reviewed for availability of funds prior to approving bills for payment, reconciling procedures for cash and accounts receivable could not be performed and revenue budget versus actual reports could not be prepared for analytical review.

City of Gloucester, Massachusetts  
Schedule of Findings and Questioned Costs  
For the Year Ended June 30, 2006  
(Continued on Page 44)

**2006-1 Systems of Internal Control (Continued)**

When reports were run, it was determined that errors were made in the revenue classification codes. A considerable amount of time and effort was made to identify and correct the revenue postings. However, due to the magnitude of the problems the software firm supplied a program that would provide a "sweeping journal entry" to correct the revenue postings based on the corrected classification codes. Other significant journal entries were made to adjust the general ledger receivable accounts to equal their related detail outstanding lists. A sweeping entry was also made in the fiscal year 2007 general ledger. I anticipate that significant journal entries to the receivable accounts will be required as of June 30, 2007.

Although we agree that both resolutions were necessary in order to move forward, there is inherent internal control weaknesses to making journal entries without supporting documentation.

The City is making efforts to rebuild its systems of internal control during fiscal year 2008. It is extremely important that the internal control procedures related to cash and the accounts receivable are given a high priority.

**2006-2 Revenue Reporting**

**Conversion Issues**

As a result of problems encountered during the software conversion, revenues (November 2005 to June 2006) were not recorded in the general ledger until September 2006. Even when the revenues were recorded, many were posted to the wrong accounts due to classification code errors. Others were posted to the wrong period (i.e. entry date issues) or were split and posted on different dates.

The inability to properly post revenues to the general ledger had a negative impact on the City's internal control environment relating to reconciling procedures. It, also, prevented the City Auditor from verifying the availability of funds in the special revenue and revolving funds prior to approving expenditures. As a result, key components of the City's internal control structure was rendered ineffective and several special revenue or revolving accounts ended up with deficit balances. The problem has carried forward to fiscal year 2007 because year end balances were not brought forward to 2007.

Fiscal year 2007 has many of the same issues as fiscal year 2006. Reconciling procedures have not been performed and a considerable amount of time and effort will be required in order to close the books as of June 30, 2007.

We recommend that the City continue its efforts to verify that the activity in 2008 is being properly posted. We, also, recommend that the City close fiscal year 2007 as soon as possible so that year end balances can be rolled forward into the 2008 general ledger.

City of Gloucester, Massachusetts  
Schedule of Findings and Questioned Costs  
For the Year Ended June 30, 2006  
(Continued on Page 45)

**2006-2 Revenue Reporting (Continued)**

**Flow of Information**

During our audit we performed procedures and reviewed work done by others during periods that extended beyond June 30, 2006 in order to make recommendations relating to improving systems of internal control. As a result, we noted that some lockbox (motor vehicle excise tax) revenues were recorded in the general ledger but were not recorded in the Treasurer's cashbook. This occurred because paperwork related to the lockbox receipts were not forwarded to the Treasurer's Office. The errors were noted when the City was reconciling the cash activity for July 2007 – September 2007 (fiscal year 2008). Errors of this type make the cash and accounts receivable reconciliation processes more difficult because the Treasurer's cashbook does not include all of the activity of the period.

We recommend that the Collector's Office and Treasurer's Office develop procedures that ensure that all receipts collected are reported to the Treasurer's Office in a timely manner.

**2006-3 Cash Reconciliation**

Prior to fiscal year 2006, the City had strong procedures to reconcile the Treasurer's cashbook to the City Auditor's general ledger. When the City converted software in November 2006, that data link between the Treasurer's Office and the City Auditor's office (general ledger) was not functional.

Therefore, cash receipts could not be transmitted to the general ledger. When the data link became operational (September 2006), receipts were posted using a February entry date instead of the date of collection/deposit. Also, when a revenue batch could not be processed in the general ledger because of a "classification code" problem with a particular revenue, that revenue was pulled from the batch and the batch was resubmitted. In some instances, the revenues never got added to a new batch. These issues made it extremely difficult to reconcile even one days deposit from the cashbook to the general ledger. As a result of these and other software and operational issues, monthly cash reconciliation procedures between the Treasurer's cashbook and the general ledger were not performed during fiscal year 2006 or fiscal year 2007. At June 30, 2006, the City had a variance between the general ledger and the Treasurer's cash of approximately \$139,000 (ledger was higher).

Performing cash reconciliation procedures on a monthly basis is a fundamental element of an internal control structure. The City has performed the procedures for fiscal year 2008 (July, August and September 2007), but still have a number of variances to clear up before those months can be considered reconciled.

We recommend that the City perform the cash reconciliation procedures on a timely basis every month. Variances between the Treasurer's cash book and the general ledger should be reviewed and resolved. Good reconciling procedures will enhance the control structure by allowing the City to detect and correct errors in a timely manner.

City of Gloucester, Massachusetts  
Schedule of Findings and Questioned Costs  
For the Year Ended June 30, 2006  
(Continued on Page 46)

**2006-4 Reconciling Procedures -Accounts Receivable**

Procedures were not in place to reconcile the accounts receivable on a monthly basis. As a result, significant adjustments were required to balance the general ledger accounts to the respective detail outstanding lists as of June 30, 2006.

When the City began its efforts to reconcile the accounts receivable, difficulties were encountered because the system generated reports did not provide for "period reporting". Period reporting allows for selecting a range of dates (i.e. June 1, 2006 – June 30, 2006) and reporting on data within that date range. Many of the system reports available at that time (and currently) could only be run as "inception to date" (i.e. from the original commitment date to the date on which the report was run). Once a month end had past, a report for that month only could not be generated.

Even now, the reports available make the reconciliation process difficult and cumbersome. Different reports must be run to obtain commitment abatement and receipt totals.

We recommend that the city work with its software provider to develop reports that will simplify the reconciliation process. Period reporting for all significant reports should be requested. Until new reports are available, the City should utilize the current reports to perform monthly reconciling procedures.

Performing monthly reconciliation procedures will enhance the internal control environment by allowing the City to detect and correct errors in a timely manner.

**2006-5 Capital Project Funds**

**Borrowings**

The City votes to approve loan authorizations to fund projects that will benefit the taxpayer over a long period of time. The votes provide the City with the authority to borrow (short term and/or long term) to provide funding for the projects. Failure to borrow for projects in a timely manner can negatively impact the City's cash flow. Also, the City's free cash position can be adversely effected because the formula utilized (by the Department of Revenue) to calculate the City's free cash position subtracts capital project fund balance deficits resulting from project expenditures that do not have offsetting borrowings (short or long term).

As of June 30, 2006, the City had several capital project accounts with significant deficit balances that did not have a related short term debt instrument.

We recommend that the Treasurer, and the City Auditor review the balances in the capital project funds, particularly near year end. Debt instruments should be issued for all projects in a deficit cash flow

City of Gloucester, Massachusetts  
Schedule of Findings and Questioned Costs  
For the Year Ended June 30, 2006  
(Continued on Page 47)

**Borrowings (Continued)**

position. In addition, Project Managers should make the Treasurer aware of cash flow requirements throughout the fiscal year.

**Budgets**

Capital project funds derive their budgets from the loan authorizations approved for the related project. There are two methods for entering budget amounts in the subsidiary expenditure system. One method is to enter a budget amount any time a new borrowing occurs (i.e. new money). This method allows the City to be

**2006-5 Capital Project Funds (Continued)**

sure that expenditures have not exceeded the related borrowings. It, also, provides a mechanism to encumber unspent proceeds from borrowing. However, it does not provide a good budgeting tool for large long term projects. Another method is to enter the loan authorizations as the budgeted amount. Although this method provides a good budgeting tool, there is a possibility that expenditures made will exceed what has been borrowed. The City could review a balance sheet account prior to approving expenditures in order to avoid spending in excess of what has been borrowed. However, typically only the budgets are reviewed prior to approving bills for payment. Additionally, this method does not provide the ability to determine unexpended proceeds from borrowings unless each capital project is in its own fund.

During fiscal year 2006, the budgets in the capital project funds were not updated for new borrowings. As a result, the ability to verify available funds prior to paying bills was diminished. Also, the City, could not determine the unexpended proceeds from borrowings related to the enterprise funds. It is necessary to determine and encumber the unspent proceeds in order to have the enterprise fund free cash certified.

We recommend that the City review the enterprise fund capital projects for 2006 and 2007. Budget amounts should be increased for new borrowings. The unspent proceeds (i.e. budget balances) should be encumbered at June 30, 2007.

**2006-6 Enterprise Fund Budgeted Revenues**

The City estimates revenues for the water, sewer and waterways enterprise funds. The budgeted revenues are utilized to offset the appropriations related to each fund and are reported on the City's tax recapitulation sheet.

If the revenues received during the fiscal year (cash basis) are less than the amount budgeted, the effect would be a reduction of the free cash in the related enterprise fund. If an enterprise fund has ongoing

City of Gloucester, Massachusetts  
Schedule of Findings and Questioned Costs  
For the Year Ended June 30, 2006  
(Continued on Page 48)

**2006-6 Enterprise Fund Budgeted Revenues (Continued)**

free cash deficits, the Division of Local Services could make the City raise the deficit on the tax recap sheet. Raising enterprise fund deficits on the recap sheet would reduce the amount that could be appropriated for general fund purposes.

During fiscal year 2006, the sewer and water fund actual revenues (cash basis) did not meet the budgeted revenues by significant amounts. This was due in part because billings related to fiscal year 2006 did not occur in a timely manner (i.e. 3<sup>rd</sup> quarter billings – May 31, 2006; 4<sup>th</sup> quarter billing - July 7, 2006).

As a result, a considerable amount of fiscal year 2006 revenues (cash basis) were not received until fiscal year 2007. Typically, the Division of Local Services will give a municipality “credit” for revenues received in a subsequent fiscal year (due to a late commitment) when calculating the free cash position of an enterprise fund.

Due to the revenue reporting difficulties encountered during fiscal years 2006 and 2007, we could not determine the exact amount of 2006 revenues collected during early 2007. In order to determine whether actual revenues (as adjusted for the late commitment) met the budgeted revenues, we estimated collections based on the percentage the City uses for its budgeting purposes. Based on the estimates, it appears that the City’s sewer and water funds revenues were less than budgeted in the \$200,000 range and \$400,000 range respectively. Appropriations not fully expended or encumbered at year end can mitigate the negative impact that occur when actual revenues are less than budgeted.

We recommend that the City make efforts to get all utility billings out in a timely manner. Also, conservative revenue estimates should be made. Monthly budget versus actual revenue reports should be reviewed and analyzed. If it does not appear that revenue estimates will be met, expenditures should cut back accordingly.

**2006-7 Chapter 90 Grants**

The Commonwealth of Massachusetts annually notifies the City of the amount of funding it will receive for road projects. The grant, commonly referred to as Chapter 90 funds, is a reimbursable grant. The City must have projects approved by Massachusetts Highway Department and submit requests for reimbursements after expenditures are made for an approved project. As a result, the Chapter 90 fund balance account is typically in a deficit balance until the reimbursements are received.

The Department of Revenue reviews the Chapter 90 account each year when it is certifying “free cash” as of June 30. If the Chapter 90 account is in a deficit balance, free cash is reduced to the extent that reimbursements have not been requested prior to June 30 (if the request for reimbursement is not made until July, the amount of free cash certified will be reduced by the amount of the deficit). As of June 30, 2006, requests for reimbursements were not made for expenditures that occurred during the fiscal year.



City of Gloucester, Massachusetts  
Schedule of Findings and Questioned Costs  
For the Year Ended June 30, 2006  
(Continued on Page 49)

We recommend that the City establish controls to ensure that reimbursement requests are made prior to June 30 so that the City's free cash position will not be reduced. Timely reimbursements will also help the City's cash flow.

**2006-8 Grants**

The School Department converted to the new software in July 2006 while the rest of the City converted in November 2006. During the early phase of the conversion, the School was creating account numbers for new grant accounts. In developing a City-Wide chart of accounts, the City Auditor created grant accounts (for the same new grants) using a different numbering scheme. As a result, there were several grants that had two general ledger grant accounts with the same names. Some of the revenues, went to the first account while the rest of the revenues and all of the expenditures were recorded in the second account. Also, classification code errors caused revenues from some grants (i.e. Baystate II grant) to be recorded in a different grant account (i.e. Special Education IDEA). We, also, noted that expenditures for certain grants (i.e. Title I, Title II and Occupational Education) were recorded in the wrong grant year.

These issues caused some grant accounts to incorrectly reflect deficit balances and others incorrectly reflect positive balances. We recommended adjusting journal entries (which were made by the City Auditor) to correct the revenue postings. However, the expenditure transactions still need to be reviewed and corrected.

We recommend that the City Auditor and the School Business Manager review the school grants and make the necessary adjusting entries.

**2006-9 Tax Liens**

Tax liens revenues collected since October 2006 have not been entered in the accounting records through the revenue reporting system (general ledger or collector's detail records) as of June 30, 2006 (and through the present time). The revenues collected during fiscal year 2006 (approximately \$238,000) were deposited in the bank and recorded in the Treasurer's cashbook. However, since the general ledger did not include those revenues, a journal entry was made in order to reflect the activity. Since payments have not been recorded in the Treasurer's computerized detail records, a manual system has been maintained. The manual system is cumbersome and does not provide the ability to easily run monthly reports. It, also, makes preparing municipal lien certificates considerably more difficult.

We recommend that the City work with its software vendor to fully utilize the tax lien software. Efforts should be made post receipts (through the current date) into the software's detail records.

We, also, recommend that the City make efforts to transmit all tax lien revenues through the data link so that the general ledger will reflect all of the City's financial activity.

City of Gloucester, Massachusetts  
Schedule of Findings and Questioned Costs  
For the Year Ended June 30, 2006  
(Continued on Page 50)

**2006-10 Sewer Betterments**

The City utilizes special revenue funds to account for the accounts receivable and revenues related to the sewer betterments. During the annual budget process, betterment fund balances are voted as "other available funds" to offset a portion of the long term debt and interest of the related betterment projects.

In order for an amount to be properly voted as an "other available fund", the funds should be on hand at the time of the vote. At June 30, 2006, two betterment funds had deficit balances (Fund 400004, MPEW - \$46,137 AND Fund 530000 - West Gloucester/Little River - \$206,775). This would indicate that that funds were not "available" at the time the vote was made. It is possible to budget "anticipated" betterment revenues as estimated revenues. However, if they are not received they could cause/add to a revenue deficit which would have to be raised as a deficit on the subsequent tax recap sheet.

We recommend that the City only vote funds actually on hand as "available funds". Anticipated betterments should be included on the estimated receipts page of the tax recap. The City should make conservative estimates so that a revenue deficit will not occur.

**III. Findings and Questioned Costs**

**2006-11 U.S. Department of Education -  
SPED - Idea Allocation Grant -  
CFDA #84.027**

The state certification had expired for one teacher who was charged to the grant. Federal regulations (No Child Left Behind Act) require that all teachers have full state certification. We recommend that the City review the certifications for all teachers to ensure they meet the Highly Qualified Teacher standard.

**2006-12 U.S. Department of Education -  
SPED - Idea Allocation Grant -  
CFDA #84.027**

Internal controls did not exist to insure that all final reports were filed in a timely manner. As a result, the final report (FR-1) was not filed on time.

**2006-13 U.S. Department of Education -  
SPED - Idea Allocation Grant -  
CFDA #84.027  
and SPED - Early Childhood  
CFDA #84.173**

Internal controls did not exist to insure that the required employee certifications for individuals charged 100% or part time to federal grants were on file. In absence of

City of Gloucester, Massachusetts  
Schedule of Findings and Questioned Costs  
For the Year Ended June 30, 2006  
(Continued from Page 49)

signed timesheets to support payroll charges to federal grant programs, the United States Office of Management and Budget (OMB) Circular A-87 specifies that certain certifications must be made as noted below:

Where employees are expected to work solely on a single Federal award or cost objective, charges for their salaries and wages will be supported by periodic certifications that the employees worked solely on that program for the period covered by the certification. These certifications will be prepared at least semiannually and will be signed by the employee or supervisory official having first hand knowledge of the work performed by the employee.

1. Where employees work on multiple activities or cost objectives, a distribution of their salaries or wages will be supported by personnel activity reports or equivalent documentation.

Personnel activity reports or equivalent documentation must meet the following standards:

- (a) They must reflect an after-the-fact distribution of the actual activity of each employee.
- (b) They must account for the total activity for which each employee is compensated.
- (c) They must be prepared at least monthly and must coincide with one or more pay periods.
- (d) They must be signed by the employee.
- (e) Budget estimates or other distribution percentages determined before the services are performed do not qualify as support for charges to Federal awards, but, may be used for interim accounting purposes when certain other requirements are met.

City of Gloucester, Massachusetts  
Summary of Prior Years Findings and Questioned Costs  
For the Year Ended June 30, 2006

<u>Program</u>	<u>Reference</u>	<u>Finding</u>	<u>Current Status</u>
U.S. Department of Education – Title 1 C.F.D.A. #84.010	2005-3	The final report (FR-1) was not filed as of May 2006.	The final report has been filed.
U.S. Department of Education – PL 94-142 C.F.D.A. #84.027	2005-4	The final report (FR-1) was not filed until March 2006.	The final report has been filed.

# **ENCLOSURE 3**

JAN 9 2008

**City of Gloucester**  
**Special Budgetary Transfer Request**  
**Fiscal Year 2008**

\*\*\*\*\*INTER-DEPARTMENTAL REQUIRING CITY COUNCIL APPROVAL\*\*\*\*\*Requires 6 Votes

DEPARTMENT REQUESTING TRANSFER:

SHELLFISH CONTROL

TRANSFER # 08

25

DATE: 1/9/2008

BALANCE IN ACCOUNT

\$800.00

(FROM) PERSONAL SERVICES ACCOUNT#:

Unifund Acct #

(FROM) ORDINARY EXPENSE ACCOUNT#:

Unifund Acct #

101000.10.296.57300.0000.00.000.00.057

Shellfish Control, Dues & Subscriptions

Account Description

EXPLANATION OF SURPLUS:

Funds available for transfer

(TO) PERSONAL SERVICES ACCOUNT#:

Unifund Acct #

101000.10.296.51250.0000.00.000.00.051

(TO) ORDINARY EXPENSE ACCOUNT#:

Unifund Acct #

Shellfish Control, Sal/Wage-PT Pos.

Account Description

ANALYSIS OF NEED(S):

To cover step increase for Assistant Shellfish Warden not budgeted for

TOTAL TRANSFER AMOUNT \$500.00

NEW BALANCE IN ACCOUNTS AFTER TRANSFER

FROM ACCOUNT:

\$300.00

TO ACCOUNT:

\$8,026.74

APPROVALS:

DEPT. HEAD:

ADMINISTRATION:

BUDGET & FINANCE:

CITY COUNCIL:

DATE: 1/9/08

DATE: 1/14/08

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

# **ENCLOSURE 4**

City Hall Annex  
Three Pond Road  
Gloucester, MA 01930



TEL 978-281-9706  
FAX 978-281-8472  
mwells@gloucester-ma.gov

CITY OF GLOUCESTER  
INFORMATION SERVICES DEPARTMENT

January 10, 2008

JAN 10 2008

To: The Office of The Mayor  
From: Mike Wells

Please find attached an invoice containing charges from FY07 which I need to pay in FY08. The company was seriously delinquent in invoicing us. I arranged for a credit for the items that were more 12 months old (more than half of what was originally billed) but that still leaves items from a prior fiscal year which I need to pay. Please include this in your next City Council packet for approval.

Regards,

A handwritten signature in black ink, appearing to read "Mike Wells", is written over a faint, larger version of the same signature.

Mike Wells  
Director of IS





Peak performance for the business  
of local governments and schools

Millyard Technology Park  
13 Technology Way  
Nashua, New Hampshire 03060

T (603) 595-5500  
F (603) 595-5560

RECEIVED  
AUDITOR'S OFFICE  
DEC 22 2007

# Invoice

<b>Bill To</b>
City of Gloucester, MA City Hall - 9 Dale Ave Attn: Accounts Payable Gloucester, MA 01930

Date	Invoice #
11/26/2007	10238

Terms	Rep	P.O. No.	Job #
Due on receipt	WS		RS445-05
Description	Quantity	Rate	Amount
RevenueSense Reimbursable Expenses for the period of 5/10/06 through 9/26/07:			
Sean Marlow Expenses:			
Out of pocket expenses, Auto Mileage (5/10/06)	130.00	0.445	57.85 *
Out of pocket expenses, Auto Mileage (6/15/06)	130.00	0.445	57.85 *
Out of pocket expenses, Tolls/Parking (6/15/06)	1.00	15.00	15.00 *
Out of pocket expenses, Auto Mileage (7/11 & 7/13/06)	260.00	0.445	115.70 *
Out of pocket expenses, Meals (7/11 & 7/13/06)	1.00	15.39	15.39 *
Out of pocket expenses, Auto Mileage (8/3/06)	130.00	0.445	57.85 *
Out of pocket expenses, Auto Mileage (9/14/06)	130.00	0.445	57.85 *
Out of pocket expenses, Auto Mileage (10/18/06)	130.00	0.445	57.85 *
Out of pocket expenses, Auto Mileage (11/15/06)	130.00	0.445	57.85 *
Out of pocket expenses, Auto Mileage (1/31/07)	130.00	0.485	63.05
Out of pocket expenses, Auto Mileage (3/21/07)	130.00	0.485	63.05
Out of pocket expenses, Auto Mileage (4/25/07)	130.00	0.485	63.05
Out of pocket expenses, Auto Mileage (5/30/07)	130.00	0.485	63.05
Out of pocket expenses, Auto Mileage (7/10/07)	130.00	0.485	63.05
Out of pocket expenses, Auto Mileage (8/16/07)	130.00	0.485	63.05
Out of pocket expenses, Auto Mileage (9/26/07)	130.00	0.485	63.05
Karyn Slater Expenses:			
Out of pocket expenses, Auto Mileage (10/19/06)	144.94	0.445	64.50 *
Out of pocket expenses, Auto Mileage (10/25/06)	143.64	0.445	63.92 *
Out of pocket expenses, Auto Mileage (11/15/06)	143.64	0.445	63.92 *
Out of pocket expenses, Auto Mileage (12/7/06)	140.00	0.445	62.30
Thank you for your business. Please remit to above address.		<b>Total</b>	<b>\$1,189.18</b>
<p>The credit is for items more than a year old.</p> <p><i>Mike Wells</i></p>		<b>Payments/Credits</b>	\$-685.53
		<b>Balance Due</b>	<b>\$503.65</b>

Items worked \*

# **ENCLOSURE 5**

Nineteen Harbor Loop  
Gloucester, MA 01930



TEL 978-282-3012  
FAX 978-978-281-4188  
jcaulkett@gloucester-ma.gov

CITY OF GLOUCESTER  
HARBORMASTER'S OFFICE

Memorandum

JAN 14 2008

From: Jim Caulkett, Harbormaster  
To: Mayor Kirk  
Date: January 14, 2008  
Subject: City Council Approval to Create New Account

Mayor Kirk,

In your next Report to Council will you please include a request from the Harbormaster and Waterways Board to authorize the City Auditor to create a new account for the deposit of \$1000.00 from the sale of the spare Harbormaster motor.

This money is recommended by the Waterways Board to assist in the purchase of a new Shellfish boat, motor and trailer.

If you have any further questions please contact me.

Sincerely,

  
Jim Caulkett



# **ENCLOSURE 6**



Nineteen Harbor Loop  
Gloucester, MA 01930

TEL 978-282-3012

FAX 978-978-281-4188

jcaulkett@gloucester-ma.gov

CITY OF GLOUCESTER  
HARBORMASTER'S OFFICE

**Memorandum**

JAN 14 2008

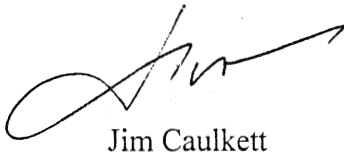
From: Jim Caulkett, Harbormaster  
To: Mayor Kirk  
Date: January 14, 2008  
Subject: City Council Acceptance of \$50,000.00 Grant

Mayor Kirk,

In your next Report to Council will you please include the attached Scope of Work and approval by the Massachusetts Seaport Advisory Council of funds in the amount of \$50,000.00 to accomplish the work.

If you have any further questions please contact me.

Sincerely,



Jim Caulkett



C. Kirk

Nineteen Harbor Loop  
Gloucester, MA 01930



TEL 978-282-3012  
FAX 978-978-281-4188  
jcaulkett@gloucester-ma.gov

## CITY OF GLOUCESTER HARBORMASTER'S OFFICE

### MEMORANDUM

To: Richard Armstrong, Executive Secretary, Seaport Advisory Council  
From: Jim Caulkett, Gloucester harbormaster  
Date: November 28, 2007  
Subject: Feasibility Study for Public Access Docks, Ramps and Water Transportation located at Stage Fort Park Gloucester, MA.

Mr. Armstrong,

Below please find the Project Scope of Work for a Feasibility Study of Public Docks, Ramps, Water Transportation and public parking improvements located at Stage Fort Park Gloucester, MA.

### **Project Scope of Work Feasibility Study for Public Access Docks, Ramps, Water Transportation and Public Parking Improvement**

This project will consist of performing an operational development scoping and evaluation study for a proposed water shuttle service between Stage Fort Park, Solomon Jacobs Park and possible other locations in Gloucester, MA. Work tasks will include the following:

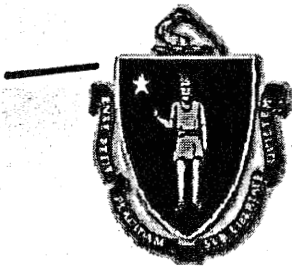
1. Field Investigations – including site inspection, hydrographic and topographic surveys of proposed site located at Stage Fort Park to Solomon Jacobs Public Landing or other suitable location. Consideration of all requirements in accordance with relative fisheries and wetlands laws. Traffic analysis for improvement to adjacent parking facility and flow of traffic across the Blynman Canal to the downtown area.
2. Operational Requirements – including specific shuttle service time tables, vessel specifications and terminal physical characteristics for all passenger loading systems.
3. Financial Analysis – including projected revenues, maintenance costs and vessel operating costs. All pre-construction engineering, design and permitting phase and all actual construction and oversight costs.

The projected cost for this project including all three work tasks is \$50,000.00.

Please feel free to contact me if you have any additional questions.

Sincerely,

James W. Caulkett Jr.  
Harbormaster



# Commonwealth of Massachusetts

## Seaport Advisory Council

40 Center Street

Fairhaven, Massachusetts 02719

Internet: <http://www.state.ma.us/seaports>

DEVAL L PATRICK  
GOVERNOR

TIMOTHY P MURRAY  
LIEUTENANT GOVERNOR  
COUNCIL CHAIRMAN

RICHARD ARMSTRONG  
DIRECTOR OF PORT DEVELOPMENT  
EXECUTIVE SECRETARY

TELEPHONE  
(508) 999-3030

FAX  
(508) 999-6442



Seaport Council Meeting  
Friday, December 21<sup>st</sup> 2007  
12:00 pm – 2:30 pm  
Lynn

- 
1. **Call Meeting to Order**  
The Honorable Tim Murray, Lieutenant Governor
  2. **Opening Statement**  
The Honorable Tim Murray  
Welcome by Thomas McEnaney, Northeast Region Member  
Mayor Clancy speaks
  3. **Recognitions:**  
The Honorable Tim Murray  
  
⊕ **Special Acknowledgements**  
Mayor John Bell, City of Gloucester  
Mayor Edward Lambert, City of Fall River  
Mayor Elect Carolyn Kirk, City of Gloucester  
Representative & Mayor Elect Robert Correia
  4. **Approval of Minutes from the May 8, 2007 Meeting**  
The Honorable Tim Murray
  5. **Executive Secretary's Report**  
Executive Secretary Rick Armstrong, Seaport Council  
  
⊕ **Short Sea Shipping**  
⊕ **Transportation Workers Identification Credential (TWIC)**  
⊕ **Historic Ports Update: (Greg Ketchen)**

- ⊕ Project Update: Posted on Seaport Website
- ⊕ Action of Port Professionals December 11<sup>th</sup>, 2007

6. Special Committees:

- ⊕ The Business of Recreational Boating Interagency Task Force
- ⊕ Dredge Review Sub-Committee

7. Port City Presentations:

Port of Lynn: Mayor Clancy  
Port of Fall River: Ken Fiola, Jr., Vice President of Economic Development  
Port of New Bedford: Mayor Scott Lang  
Port of Boston: Port Director Michael Leone  
Richard McGuinness, BRA  
Port of Salem: Mayor Kimberley Driscoll  
Port of Gloucester: Mayor John Bell

8. Projects for Vote

Note:

- I. Those projects so noted by "LA" require Legislative Action on amending the Seaport Bond Bill to provide authorization to release the funds if so voted.

i. Port of Boston

\$300,000 Charlestown Navy Yard Pier 4 Dredge

*Richard McGuinness, BRA*

ii. Port of Fall River

\$640,000 Step 1 South Berth Repairs, Fall River State Pier

*Karl Hammond, PARE Corporation*

iii. Port of Gloucester



\$50,000 Harbor Transportation Plan

*Mayor John Bell & Jim Caulkett, Harbormaster*

\$800,000 Harbormaster Wharf Construction (LA)

*Mayor John Bell & Jim Caulkett*

iv. Port of New Bedford



# **ENCLOSURE 7**

Nineteen Harbor Loop  
Gloucester, MA 01930



TEL 978-282-3012  
FAX 978-978-281-4188  
jcaulkett@gloucester-ma.gov

CITY OF GLOUCESTER  
HARBORMASTER'S OFFICE

JAN 14 2008

**Memorandum**

From: Jim Caulkett, Harbormaster  
To: Mayor Kirk  
Date: January 14, 2008  
Subject: City Council Acceptance of \$800,000.00 Grant

Mayor Kirk,

In your next Report to Council will you please include the attached Scope of Work and approval by the Massachusetts Seaport Advisory Council of funds in the amount of \$800,000.00 to accomplish the work.

If you have any further questions please contact me.

Sincerely,

Jim Caulkett

Nineteen Harbor Loop  
Gloucester, MA 01930



TEL 978-282-3012  
FAX 978-978-281-4188  
jcaulkett@gloucester-ma.gov

## CITY OF GLOUCESTER HARBORMASTER'S OFFICE

### MEMORANDUM

To: Richard Armstrong, Executive Secretary, Seaport Advisory Council  
From: Jim Caulkett, Gloucester Harbormaster  
Date: November 28, 2007  
Subject: Harbormaster Wharf Improvement Project Scope of Work

Mr. Armstrong,

Below please find the Project Scope of Work for the Harbormaster Wharf Improvement Project. This project will enhance public access to and from the waters of Gloucester for all boaters to utilize.

### **Project Scope of Work Harbormaster Wharf Improvement Project**

The project will consist of performing all demolishing and disposal of the existing wooden structure located at Solomon Jacobs Public Landing. It will include new timber decking and pile construction, davit installation, new floats and gangway, electrical and water upgrades and engineering oversight for bid phase and construction services. Work tasks will include the following:

1. Demolition - including mobilization and demobilization, demolition and removal of all material and the containment of the area during demolition to prevent hazards to navigation.
2. Construction - including timber piles, pile float guides, framing, decking, floats, aluminum gangway, boat davit, concrete overlay, gates and misc. metals and utilities.
3. Engineering Oversight - including contract and grant assistance, bid phase services, site visits and meetings, project closeout, travel, mailings/reproductions and recording fees.

The projected cost for this project including all three work tasks is \$678,000.00

Please feel free to contact me if you have any questions.

Sincerely,

James W. Caulkett Jr.  
Harbormaster



# Commonwealth of Massachusetts

## Seaport Advisory Council

40 Center Street

Fairhaven, Massachusetts 02719

Internet: <http://www.state.ma.us/seaports>

DEVAL L PATRICK  
GOVERNOR

TIMOTHY P MURRAY  
LIEUTENANT GOVERNOR  
COUNCIL CHAIRMAN

RICHARD ARMSTRONG  
DIRECTOR OF PORT DEVELOPMENT  
EXECUTIVE SECRETARY

TELEPHONE  
(508) 999-3030

FAX  
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Seaport Council Meeting  
Friday, December 21<sup>st</sup> 2007  
12:00 pm – 2:30 pm  
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- 
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The Honorable Tim Murray  
  
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Mayor Edward Lambert, City of Fall River  
Mayor Elect Carolyn Kirk, City of Gloucester  
Representative & Mayor Elect Robert Correia
  4. **Approval of Minutes from the May 8, 2007 Meeting**  
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  5. **Executive Secretary's Report**  
Executive Secretary Rick Armstrong, Seaport Council  
  
⊕ **Short Sea Shipping**  
⊕ **Transportation Workers Identification Credential (TWIC)**  
⊕ **Historic Ports Update:** (*Greg Ketchen*)

- ⊕ Project Update: Posted on Seaport Website
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6. Special Committees:

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7. Port City Presentations:

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Port of New Bedford: Mayor Scott Lang

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Richard McGuinness, BRA

Port of Salem: Mayor Kimberley Driscoll

Port of Gloucester: Mayor John Bell

8. Projects for Vote

Note:

- I. Those projects so noted by "LA" require Legislative Action on amending the Seaport Bond Bill to provide authorization to release the funds if so voted.

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\$300,000 Charlestown Navy Yard Pier 4 Dredge

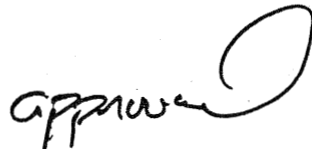
*Richard McGuinness, BRA*

ii. Port of Fall River

\$640,000 Step 1 South Berth Repairs, Fall River State Pier

*Karl Hammond, PARE Corporation*

iii. Port of Gloucester



\$50,000 Harbor Transportation Plan

*Mayor John Bell & Jim Caulkett, Harbormaster*

\$800,000 Harbormaster Wharf Construction (LA)

*Mayor John Bell & Jim Caulkett*

iv. Port of New Bedford

# ENCLOSURE 8




# CITY OF GLOUCESTER

Gloucester • Massachusetts • 01930

Department of Public Works

## memorandum

**To:** Mayor Carolyn Kirk  
**From:** Joseph P. Parisi, Jr., Director of Public Works  
**Subject:** Acceptance of FY08 Municipal Sustainability Grant  
**Date:** January 2, 2008

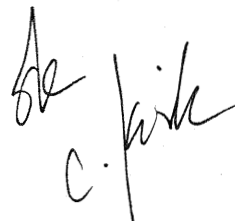


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Attached, please find a memo from Recycling Coordinator Kathy Middleton requesting the acceptance of a Municipal Sustainability Grant from the Massachusetts Department of Environmental Protection (DEP) valued at \$2,800. This grant is in the form of dedicated MassDEP personnel who will provide up to 80 hours of assistance to the community between now and June, 2008.

Specifically, this grant will allow for a comparison of like Pay As You Throw (PAYT) communities, develop a cost benefit analysis of converting from our sticker PAYT program to a bag PAYT program, and if approved for implementation, will assist with the implementation process. The grant will also provide assistance with the development of Contract Specifications for the upcoming renewal of our contract for collection and disposal of trash and collection and processing of recyclables and will also provide assistance with the evaluation of all submitted vendor proposals.

I ask that upon your review and approval, you seek acceptance of this DEP grant award from the City Council. If you or the City Council have any questions regarding the grant, Kathy Middleton and I will be available to discuss it in more detail.





# CITY OF GLOUCESTER

GLOUCESTER • MASSACHUSETTS • 01930

TO: Joe Parisi

FROM: Kathy Middleton *KM*

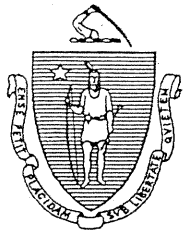
SUBJECT: FY08 Municipal Sustainability Grant

DATE: January 2, 2008

Gloucester has been awarded a Municipal Sustainability Grant from the Massachusetts Department of Environmental Protection (DEP) valued at \$2,800. The City of Gloucester's proposal for an "in-kind" technical assistance project, titled Recycling Contract Assistance has been selected for an award. The award is in the form of dedicated MassDEP personnel who will provide up to 80 hours of assistance to the community between now and June, 2008. See the attached Scope of Work document.

I am requesting that you accept this grant that includes assistance with converting the City's current PAYT sticker program to a PAYT bag program as well as developing the specifications for upcoming solid waste collection and disposal and recycling collection procurement documents.





COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
ONE WINTER STREET, BOSTON, MA 02108 617-292-5500

DEVAL L. PATRICK  
Governor

TIMOTHY P. MURRAY  
Lieutenant Governor

IAN A. BOWLES  
Secretary

LAURIE BURT  
Commissioner

November 19, 2007

Mayor Carolyn Kirk  
City of Gloucester  
9 Dale Avenue  
Gloucester, MA 01930

Dear Mayor Kirk:

Congratulations! It is my pleasure to inform you that your municipality is receiving an FY08 Municipal Sustainability Grant from the Massachusetts Department of Environmental Protection (MassDEP). The City of Gloucester's proposal for an "in-kind" technical assistance project, titled *Recycling Contract Assistance* has been selected for award. The award is in the form of dedicated MassDEP personnel who will provide up to 80 hours of assistance to your community between now and June, 2008. The value of this grant is approximately \$2,800.

Technical assistance grants are conditional upon reaching a mutually agreed upon scope of work. Your designee will need to meet with MassDEP's Municipal Assistance Coordinator, Sharon Kishida to discuss your specific goals for this grant and outline the scope. In the meantime, should you have any questions please call Regan Clover at (617) 292-5707.

MassDEP applauds your dedication to improving your local waste reduction program and shares your commitment to working towards a sustainable environment.

Sincerely,

A handwritten signature in black ink, appearing to read "Laurie Burt", written in a cursive style.

Laurie Burt  
Commissioner

cc: Kathy Middleton, Recycling Coordinator, DPW  
Sharon Kishida, Municipal Assistance Coordinator  
Senator Tarr and Representative Verga





# CITY OF GLOUCESTER

GLOUCESTER • MASSACHUSETTS • 01930

## Massachusetts Department of Environmental Protection FY 2008 Municipal Sustainability Grant for the City of Gloucester Scope of Work

### Introduction

In November, 2007 the City of Gloucester received a Municipal Sustainability Technical Assistance grant from the Department of Environmental Protection (MassDEP). The grant provides **Gloucester** (hereinafter "Grantee") with approximately 80 hours of DEP personnel time to assist with converting the City's current PAYT sticker program to a PAYT bag program as well as developing the specifications for upcoming solid waste collection and disposal and recycling collection procurement documents. **Sharon Byrne Kishida** has been assigned to work with the Grantee on this project. Work performed by Sharon Byrne Kishida on this grant will be completed by June 30, 2008.

Goals and Objectives: Initial goal of this project is to transition from the current PAYT sticker program to a PAYT bag program that offers 2 size bags. The second goal is to insure the City's next collection contract (current contract expires June 30, 2009) encourages trash reduction and recycling participation/tonnage, and is cost effective for the City and its residents. In consideration of those goals, the City is hoping to reduce its per ton disposal cost and take care that any revenue share language is clear and tied to a viable index. The Grantee shall assign a Project Coordinator (Kathy Middleton) to work with Sharon Byrne Kishida on this project.

### Scope of Services

☐ Initial Meetings with Project Coordinator and designated Committee members  
(20 hours) **January 2008**

- Sharon Byrne Kishida will meet with Grantee to discuss goals and objectives, and establish roles and responsibilities for Grantee's Project Coordinator (PC) and other municipal stakeholders. Meeting schedule will be determined.
- Sharon Byrne Kishida will compile and share information about other like PAYT programs.
- Sharon Byrne Kishida will compile and share information about collection contracts in the region.

☐ Develop PAYT bag Cost Benefit Model  
(20 hours) **February 2008**

- Project Coordinator and Sharon Byrne Kishida will compile information on current recycling and solid waste system (contracts, tonnages, costs) and outline current PAYT program.

- Sharon Byrne Kishida will develop multiple PAYT bag cost-benefit models reflecting different bag sizes and diversion rates scenarios under consideration.
- Sharon Byrne Kishida will summarize and review these models with the Grantee.
- Sharon Byrne Kishida will assist the Project Coordinator and other municipal stakeholders in making initial PAYT bag recommendation to Mayor and City Council.

☐ Develop Contract Specifications (25 hours) February – June 2008

- Sharon Byrne Kishida will review Grantee's current recycling/solid waste contracts.
- **Sharon Byrne Kishida** will assist Grantee in preparing procurement document(s) for collection and disposal of trash and collection and processing of recyclables.
- Grantee will issue procurement document(s) for solid waste collection/disposal and recycling collection/processing.
- Grantee will evaluate proposals.

☐ PAYT Bag Implementation Process (contingent on whether PAYT bags are approved) (15 hours) May – June 2008

- Sharon Byrne Kishida will assist Grantee with compiling data and creating information packet for City Council on program benefits, cost impacts, and associated issues.
- Sharon Byrne Kishida and Grantee will develop an educational presentation with detailed financial analysis for City Officials and residents/ community groups and Frequently Asked Questions sheet, as desired.
- Sharon Byrne Kishida will assist with bag orders, outreach, and other steps toward implementation.

☐ Summary of Deliverables

- PAYT bag program financial planning model that reflects the City's goals
- Collection contract procurement specifications

If PAYT bags are approved:

- PAYT bag Implementation Plan
- List of Frequently Asked Questions and Answers

The City of Gloucester approves this Scope of Work:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

For the Massachusetts Department of Environmental Protection

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

# **ENCLOSURE 9**

# CITY OF GLOUCESTER

## AUDITOR'S OFFICE

FY2008

JAN 8 2008

JANUARY 4, 2008

TO: CITY COUNCIL

FROM: CITY AUDITOR

RE: CODE OF ORDINANCE CHAPTER 2, ADMINISTRATION, ARTICLE III,  
OFFICERS AND EMPLOYEES, DIVISION 6, CITY AUDITOR, S 2-104  
p. 161, EFFECTIVE MARCH 1, 1986

cc: MAYOR JOHN BELL; ADMINISTRATIVE ASSISTANT, STEVE MAGOON

S 2-104 DUTY WHEN APPROPRIATIONS ARE EXHAUSTED  
WHENEVER THE APPROPRIATIONS FOR ANY DEPARTMENT FOR ANY OBJECTS HAVE  
BEEN EXHAUSTED, THE CITY AUDITOR SHALL COMMUNICATE THE FACT TO THE  
MAYOR AND THE CITY COUNCIL, AND ALL EXPENDITURES THEREFORE SHALL CEASE  
UNTIL A FURTHER APPLICATION IS DULY MADE.

AS OF THE WEEK ENDING JANUARY 4TH, 2008 THE FOLLOWING ACCOUNTS HAVE  
EXPENDITURES THAT EXCEED THEIR APPROPRIATIONS: CITY DEPARTMENTS

<u>ACCOUNT #</u>	<u>ACCOUNT TITLE</u>	<u>AMOUNT OVER</u>
101000.10.121.51100.051	Mayor Sal/Wage Perm Pos	(\$330.06)
101000.10.151.51100.051	Legal Sal/Wage Perm Pos	(\$6,650.30)
101000.10.151.51250.051	Legal Sal/Temp Pos	(\$2,715.00)
101000.10.152.51970.051	Personnel/Retirement Sick Buy-Back	(\$34,367.96)
101000.10.155.51100.051	Mgn Infor Services Sal Wage Perm Pos	(\$342.11)
101000.10.210.51300.051	Police Admin/Sal/Wage Over Time	(\$88.61)
101000.10.211.51360.051	Police Uniform/Beach Over Time	(\$12,479.92)
101000.10.211.51570.051	Police Uniform/Workers Comp	(\$17,463.85)
101000.10.220.51100.051	Fire Department/Sal/Wage Perm Pos	(\$17,116.15)
101000.10.220.51570.051	Fire Department Workers/Comp	(\$53,515.33)
101000.10.423.52970.052	Snow and Ice Removal / Contractors	(\$40,197.25)
101000.10.423.54900.054	DPW Snow and Ice Removal/Food	(\$500.00)

# **CITY OF GLOUCESTER**

## **AUDITOR'S OFFICE**

101000.10.499.51570.051

DPW Worker Comp

(\$5,312.63)

# **ENCLOSURE 10**



# CITY OF GLOUCESTER

GLOUCESTER • MASSACHUSETTS • 01930

JAN 10 2008

TO: Steve Magoon, Adm. Assistant to the Mayor  
FROM: Joseph P. Parisi, Jr., Director of Public Works  
RE: Council Request 11/27/07  
DATE: December 28, 2007

**07-260 (Grow):** Request the Mayor instruct the DPW to clean up the trash/garbage in and around Gernerello/Ciaramitaro Park in the Fort and that the broken swing be repaired. - Complete

c: June Budrow

Word/Council: REQ0716




# **ENCLOSURE 11**

City of Gloucester, Ma. 01930

TO: Mayor Carolyn Kirk

DATE: January 9, 2008

FROM: Barry S. McKay, Fire Chief 

COPIES TO: City Council

SUBJECT: Opening Burning Season - press release

JAN 10 2008

REFERENCE: Press release attached

I have attached a copy of the press release announcing the open burning season and permit/safety requirements. This may be of interest and benefit to the City Council, via the Mayor's report, for constituent inquiries.

In calendar year 2007, the Fire Department issued 665 permits for open burning. These permits generated revenues of \$9,975.

The Fire Department is called to investigate dozens of reported smoke conditions and complaints relating to open burning during the three month burning period. Additionally, we randomly inspect burning sites for compliance and safety. The cost to the City for these investigations, site inspections, and responses to fires that get out of control, are covered by the \$15.00 permit fee. In 2006, open burning off Ferry Street spread out of control, driven by high winds, across Poles Hill. The danger to homes in the area was very real. Only through an aggressive, costly fire fighting operation was the fire stopped. Thus, the permit fee is justified.

Most residents comply with the requirements for safe open burning. The voluntary compliance, combined with random site inspections, complaints and smoke investigations, all make for a relatively controlled and safe burning period each year. Each year, as we develop the permits and update instructions to the on duty fire fighters who issue the permits, we attempt to review lessons learned from previous years. To this end, any feedback from the public on improving the permit process or safety of open burning is welcomed. Feedback, preferably in writing, can be directed to Fire Chief Barry S. McKay at Fire Headquarters.

OPENBUR07.LWP

# **For Immediate Release**

JANUARY 10, 2008

Contact: Barry S. McKay, Fire Chief  
Fire Headquarters  
8 School Street  
Gloucester, MA 01930-3529  
Tel: (978) 281-9760  
Fax: (978) 281-9822

E-mail: [bmckay@ci.gloucester.ma.us](mailto:bmckay@ci.gloucester.ma.us)

## **FIRE DEPARTMENT ANNOUNCES OPEN BURNING SEASON**

**Gloucester, Mass. (JANUARY 10, 2008)** — The open burning season will begin on Tuesday, January 15, 2008 and runs through Thursday, May 1, 2008. As in the past, open burning can only be done with a permit issued by the Fire Department. Open burning is permitted for brush, cane, driftwood, forestry debris, agricultural debris, and, under limited conditions, fungus-infected elm wood. Open burning is prohibited for grass, hay, leaves, stumps, and commercial or industrial land clearing for nonagricultural purposes.

A permit for open burning can be obtained at Fire Headquarters, 8 School Street, beginning Monday, January 14, 2008, and will be effective for Tuesday January 15, 2008. Permits issued are issued daily thereafter, from 8 A.M. to 8 P.M. The permit is initially issued for one day. The permit remains valid, unless suspended or revoked, for the entire burning season. Permission to burn under the permit, after the date of issue, must be obtained by calling Fire Headquarters after 9:15 A.M. using the business line 978-281-9760. **DO NOT CALL THE FIRE/AMBULANCE EMERGENCY TELEPHONE NUMBERS 911 OR 978-283-2424 TO REQUEST PERMISSION TO BURN.** The requirement to call in each day is based on changing atmospheric conditions (i.e., wind, inversion conditions, dryness, etc.). The on-duty fire officers will make a determination before 9 AM daily if burning will be allowed. Once the decision to allow open burning is made, the calls from permit holders wanting to burn allow the Department to log who is burning in case reports of smoke or uncontrolled outside fires are received. The Department will investigate all reports of smoke and uncontrolled fires although the responses can be slowed (i.e., done more safely) if we know permitted burning in the specific area has been authorized.

The permit fee is \$15.00, as authorized by the State Legislature, for the original permit. Exact change (fifteen ones, three five dollar bills, a ten and five dollar bill, or a check for \$15) is required. We cannot guarantee the ability to make change. Any returned checks must be redeemed in cash and a \$25 fee for handling returned checks will be charged. There is no charge for permit extensions each day or to replace a lost original permit. Violations of the permit requirements, open burning law, and/or open burning regulations will be grounds for permit revocation. Persons found burning without a permit may be subject to criminal charges the punishment for which is a fine of up to one hundred dollars or imprisonment for not more than one month, or both (i.e., Massachusetts General Law Chapter 48, Section 13).

A copy of the permit and open burning pamphlet "OPEN BURNING REQUIREMENTS & RESPONSIBILITIES IN MASSACHUSETTS" is attached for your review. Additionally, copies of Massachusetts General Law Chapter 48, Section 13, and 310 Commonwealth of Massachusetts Regulation 7.07:U Open Burning (the State Law and Regulation on open burning respectively) will be provided for additional information if requested.

If you have any questions regarding open burning, please call the Fire Department at 281-9760 and ask for the Fire Chief, or the Officer in Charge.

GLOUCESTER FIRE DEPARTMENT  
8 SCHOOL STREET, GLOUCESTER, MA. 01930-3529  
TELEPHONE (Business/Routine Calls) 978-281-9760

Rev. 1/9/08

RESTRICTED OPEN BURNING PERMIT

ISSUED SUBJECT TO THE CONDITIONS PRINTED HEREUPON. YOU ARE REQUIRED TO BECOME THOROUGHLY FAMILIAR WITH ALL PROCEDURES, CONDITIONS AND RESTRICTIONS AS PRINTED ON BOTH SIDES OF THIS PERMIT.

PERMIT # **2008 - 1**

DATE OF ISSUE: \_\_\_\_\_

1. NAME: \_\_\_\_\_  
(PERMIT HOLDER - PLEASE PRINT LEGIBLY)

2. ADDRESS: \_\_\_\_\_  
(BURNING SITE - THIS PERMIT IS VALID FOR THIS LOCATION ONLY)

3. TELEPHONE NO.: \_\_\_\_\_  
(AT THE BURNING SITE, YOUR HOME NUMBER AND/OR CELL NUMBER)

THIS PERMIT IS VALID FROM 1/15/08 THROUGH 5/1/08 ON DAYS THAT FIRE CHIEF BARRY S. MCKAY OR HIS DESIGNATED REPRESENTATIVE DECLARE TO BE SUITABLE FOR OPEN BURNING IN ACCORDANCE WITH ALL PERMIT CONDITIONS AND RESTRICTIONS, LOCAL ORDINANCES, STATE STATUTES AND REGULATIONS (ON BACK OF THIS PERMIT). THIS PERMIT IS SUBJECT TO CANCELLATION (i.e., DUE TO HIGH WINDS, DRY CONDITIONS, POOR AIR QUALITY OR OTHER SAFETY OR ENVIRONMENTAL CONCERNS) OR REVOCATION (i.e., FOR VIOLATIONS OF THE REGULATIONS, LAWS OR PERMIT CONDITIONS/RESTRICTIONS) AT THE DISCRETION OF THE FIRE DEPARTMENT. THIS PERMIT CAN BE EXERCISED ON THE DATE OF ISSUE ONLY. THEREAFTER, THE PERMIT MAY BE EXTENDED, AT THE DISCRETION OF THE FIRE DEPARTMENT, BY FOLLOWING THE PERMIT EXTENSION PROCEDURES BELOW.

PERMIT GRANTING AUTHORITY: Barry S. McKay, Fire Chief

ISSUED BY & FEE COLLECTED BY: \_\_\_\_\_

PERMIT EXTENSION PROCEDURE:

1. On the day you wish to conduct open burning (under provisions of this permit) call 978- 281-9760 after 9:15 A.M. DO NOT CALL THE EMERGENCY NUMBERS 911 OR 978-283-2424.
2. State your permit number, name, address and telephone number as shown in the upper left corner.
3. On approved days, you will be given verbal permission for burning, and this permission will be recorded in the permit log book at Fire Headquarters.
4. If the wind speed increases to a level that affects safe control of your fire, you are expected to extinguish the fire.

FEE PAID: \$15.00 This permit is your receipt. Checks returned for any reason must be redeemed in cash (preferably), bank check, certified check or by money order. A \$25 collection cost will be added and your permit is void until the check is redeemed.

TEAR OFF AND STAPLE THIS RECEIPT TO FEE

PERMIT # **2008 - 1**

FEE: \$15.00 - CASH \_\_\_\_\_ CHECK # \_\_\_\_\_

NAME: \_\_\_\_\_ ADDRESS: \_\_\_\_\_ TEL. #: \_\_\_\_\_

- \* Permit holders must call 978-281-9760 after 9:15 A.M. on the day he/she wishes permission to conduct open burning. Your permit number must be stated for the records. This permit must be available at the site while burning and be produced upon request.
- \* Burning hours are between 10:00 A.M. and 4:00 P.M. The fire must be completely extinguished no later than 4:00 P.M. Extinguished means drowned in water or cool to the touch. DO NOT LEAVE EMBER PILES UNATTENDED.
- \* A water charged hose, other suitable water supply and/or tool capable of extinguishing the fire must be readily available for fire control purposes.
- \* There is to be no more than one (1) small burning pile at a time.
- \* The permit holder or their designee, as listed on the front item 4, must be at the burn site within sight of the fire and no more than 100 feet from the fire.
- \* THIS PERMIT IS VALID FOR BURNING OF THE FOLLOWING MATERIALS ONLY:
  - Brush, cane, driftwood and forestry debris from other than commercial or industrial land clearing.
  - Materials normally associated with the pursuit of agriculture, such as fruit tree prunings, dead raspberry stalks, blueberry prunings, infected beehives for disease control.
  - Trees and brush clearing resulting from agricultural land clearing.
  - Fungus-infected elm wood if no other acceptable means of disposal is available. (Disease free brush is not an acceptable starting aid).
- \* THE BURNING OF ANY OTHER MATERIALS INCLUDING GRASS, LEAVES, HAY, TRASH, RUBBISH, REFUSE, LUMBER, DEMOLITION MATERIALS, ETC. IS STRICTLY PROHIBITED AT ALL TIMES. FIRES WITH THESE MATERIALS WILL BE EXTINGUISHED BY THE FIRE DEPARTMENT.
- \* APPROVED BURNING SHALL BE CONDUCTED:
  - ON LAND CLOSEST TO THE SOURCE OF THE MATERIAL BEING BURNED.
  - AT A LOCATION GREATER THAN SEVENTY-FIVE (75) FEET FROM ANY DWELLING.
  - ONLY DURING PERIODS OF GOOD ATMOSPHERIC VENTILATION.
  - WITHOUT CAUSING A NUISANCE. Any complaints of smoke becoming a nuisance or causing pollution will be cause for extinguishment of the fire and revocation of the permit for open burning at the site of violation.
  - WITH SMOKE MINIMIZING STARTERS (IF STARTING AIDS ARE USED).
  - UNDER THE PROVISIONS OF MASSACHUSETTS GENERAL LAW CHAPTER 148, SECTION 10A, MASSACHUSETTS GENERAL LAW CHAPTER 48, SECTION 13, 310 COMMONWEALTH OF MASSACHUSETTS REGULATIONS 7.07: U OPEN BURNING AND 527 COMMONWEALTH OF MASSACHUSETTS REGULATION 10.22.

OPEN BURNING COMPLIANCE IS SUBJECT TO LOCAL ENFORCEMENT BY THE FIRE DEPARTMENT, POLICE DEPARTMENT, BOARD OF HEALTH AND BUILDING INSPECTOR.

**WE RECOMMEND THE "GOOD NEIGHBOR POLICY". ADVISE YOUR NEIGHBORS WHEN YOU PLAN TO CONDUCT OPEN BURNING & STOP BURNING IF SMOKE COULD BE BOTHERING NEIGHBORS.**

## Suggested Guidelines for Conducting Open Burning:

### - Starting the Fire

- Before placing materials to be burned in an area, remove all grass.
- Before burning brush, dry by cutting in advance or covering.

Start the fire using either small amounts of kerosene, #2 fuel (no gasoline), or a pressurized burner which uses diesel fuel.

### - While Burning

Someone must attend the fire until completely extinguished. Have available a water supply, such as a pressurized water pump can or hose, and shovels or rakes for controlling the fire.

### - Extinguishing the Fire

Burn the fire down to coals and spread the coals with snow, water, sand or soil.

All open burning must be conducted during periods of good atmospheric ventilation\* without causing a nuisance\*.

## DIVISION OF AIR QUALITY CONTROL REGIONAL OFFICES:

Central - Worcester

(617) 792-7690

Metropolitan/Northeast - Woburn

(617) 935-2160

Southeast - Lakeville

(508) 946-2770

Western - Springfield

(413) 785-5327

MASSACHUSETTS  
DEPARTMENT OF ENVIRONMENTAL  
PROTECTION  
DIVISION OF AIR QUALITY CONTROL  
ONE WINTER STREET  
BOSTON, MA 02108

12/90

## OPEN BURNING: REQUIREMENTS & RESPONSIBILITIES IN MASSACHUSETTS

Open burning, the burning of any material out-of-doors, releases large amounts of carbon monoxide and other gaseous and solid substances directly into the atmosphere. Open burning causes air pollution and aggravates respiratory problems. Under poor atmospheric conditions, open burning creates a smoke and odor nuisance — as well as a health threat — to area residents, especially in densely populated areas. For these reasons, open burning is restricted in Massachusetts.

**You must obtain a PERMIT for open burning from your local fire department or fire warden.**

The only times a permit is not necessary are:

- to combat or backfire an existing fire by persons affiliated with an official firefighting agency, or
- for cooking purposes.

**Burning with a permit or the following materials is ALLOWED:**

- brush, cane, driftwood, and forestry debris from other than commercial or industrial land clearing operations between January 15 - May 1 under the following conditions:
  - burning must be at least 75 feet from all dwellings,
  - burning must be carried out between 10 AM and 4 PM, and
  - burning must take place on land closest to the source of material to be burned.

- materials normally associated with the pursuit of agriculture, such as fruit tree prunings, dead raspberry stalks, blueberry patches for pruning purposes, infected beehives for disease control.

- trees and brush resulting from agricultural land clearing.

- fungus-infected elmwood if no other acceptable means of disposal is available (disease-free brush is not an acceptable starting aid).

~~~~~

**NO OPEN BURNING PERMITTED  
MAY BE ISSUED FOR the burning of brush, cane, driftwood, and forestry debris in the following communities:**

|            |                  |
|------------|------------------|
| Arlington  | Lowell           |
| Belmont    | Malden           |
| Boston     | Medford          |
| Brookline  | New Bedford      |
| Cambridge  | Newton           |
| Chelsea    |                  |
| Cum gratia | Somerville       |
| Everett    | Springfield      |
| Fall River | Waltham          |
|            | Watertown        |
| Holyoke    | West Springfield |
| Lawrence   | Worcester        |

~~~~~

**Permits are also required for the following activities:**

- training or research in fire protection or prevention with specific approval by the Department of Environmental Quality Engineering (DEQE).

- burning of Christmas trees from December 26 to January 7 of each year.

- one ceremonial bonfire each year to observe a municipal, state, or national event, under the supervision of the fire department.

- bonfires between July 2 and July 6, under supervision of the fire department.

**IS PROHIBITED statewide:**

- brush, trees, cane, and driftwood from commercial and institutional land clearing operations.
- grass, hay, leaves, and stumps.
- tires.

**Also prohibited is:**

- burning at landfills or refuse disposal facilities other than approved sites.
- stacking, placing, or storing combustible material such that the Department may presume that it will be burned.

~~~~~

REMEMBER  
Open Burning  
Causes  
Air Pollution

# **ENCLOSURE 12**



JAN 8 2008

CITY OF GLOUCESTER  
Assessors' Office

**ACTIVITIES DURING OCTOBER, NOVEMBER AND DECEMBER:**

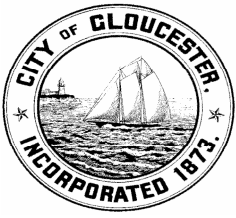
- \* Printed and began filing 14,000+- property record cards.
- \* Created actual billing commitment file for real and personal property. Prepared and apportioned sewer betterments, committed interest, related warrants and memos for various phases, Compensatory Sewer Privilege Fees, Paving Betterments, Septic Management Fund and 4% Deferrals.
- \* Warranted new FY08 Septic Management Fund betterments in the amount of \$255,637.08.
- \* Spotted and entered deed information for calendar year 2007 transfers and mailed sales verification forms for transfers over \$1,000.00.
- \* Continued cyclical data quality property inspections.
- \* Prepared the 12th motor vehicle commitment and warrant for calendar year 2006 and the 6th motor vehicle commitment and warrant for calendar year 2007. The 2 commitments resulted in 884 bills and \$59,680.95 to be collected.
- \* Processed 187 motor vehicle excise abatements equaling a \$10,025.35 reduction in revenue.
- \* Processed 22 boat excise tax bill abatements equaling a \$1,212.50 reduction in revenue.
- \* Completed sales ratio analysis and market adjustments to determine values for FY08.
- \* Completed and submitted state tax forms LA-13, LA-4 and LA-10. Received preliminary approval of new values from the Department of Revenue on November 13, 2007. Sent impact notices to all "out of town" property owners and held a public disclosure period from November 19<sup>th</sup> through November 26<sup>th</sup>. Received final certification of values for all classes of real and personal property on November 27, 2007.
- \* Prepared packages and attended Tax Classification public hearings of the City Council and the Budget and Finance Committee.
- \* Completed RECAP sheet in conjunction with the Auditor and Chief Financial Officer.
- \* Received certification of new growth on December 7, 2007 and final certification of FY08 tax rates from the Department of Revenue on December 21, 2007.

- \* Processed 78 abutters listings and 197+- address change requests.
- \* Prepared for "abatement season" by displaying calendar year 2006 sales and photographs by class and sale price.
- \* Created updated street listing with FY08 owners and values.
- \* Reviewed 229 real estate personal exemption applications for elderly over 70 years of age, disabled veterans, legally blind, surviving spouse or orphan minor, surviving spouse of a police or fire person killed on duty of which 227 were approved.
- \* Submitted \$706.00 in cash receipts derived from information requests.
- \* Routed and began first of the year inspections to determine status of 2007 building permits.
- \* Processed 1 real estate abatement in the amount of \$2,442.66 as the result of a settlement of a pending Appellate Tax Board case.
- \* Gathered preliminary data in preparation for apportionment of tax bills for recently created or split parcels.

**ACTIVITIES PROJECTED FOR JANUARY, FEBRUARY AND MARCH:**

- \* Complete filing of 14,000+- property record cards.
- \* Begin the abatement process by accepting applications and inspecting properties.
- \* Apportion real estate tax bills per request of taxpayers.
- \* Process Clause 41A Elderly Deferral applications and continue review of real estate personal exemption applications. Create and mail exemption certificates to qualified and approved applicants to submit with 3<sup>rd</sup> quarter tax payments.
- \* Prepare "Top Ten Taxpayers" list for CFO.
- \* Continue spotting and review of deeds and mailing of sales verification packages.
- \* Mail letters of reminder for annual submission of 3ABC forms (charitable organizations) and CL-4 forms (Chapter 61 accounts).
- \* Mail income and expense forms to commercial properties.
- \* Mail Forms of List (State Tax Form 2) to existing personal property accounts.
- \* Prepare first motor vehicle and boat commitments for 2008.

- \* Update Assessor's maps and records to reflect lot splits, combinations and new condominium projects recorded in 2007.
- \* Begin collection and analysis of calendar year 2007 sales data including field inspections.
- \* Complete first of the year inspections to determine status of 2007 building permits.
- \* RRC to begin discovery of new accounts and maintenance of existing commercial/industrial personal property accounts.
- \* Prepare for Appellate Tax Board case scheduled for February 5, 2008.
- \* Prepare for cyclical data quality inspections and detailed follow up inspections of properties with outstanding building permits.
- \* Complete annual performance reviews.
- \* Formulate proposed FY 2009 department budget for submission to the Administration.



## **CITY COUNCIL MEETING 2008-002**

**Tuesday, January 8, 2008 - 7 p.m.**

**Kyrouz Auditorium – City Hall**

**Attendance:** Bruce Tobey, Council President; Sefatia A. Romeo, Council Vice President; Councilors Joe Ciolino, Steve Curcuru, Philip Devlin, John “Gus” Foote, Sharon George, Jason Grow, and Jacqueline Hardy

**Absent:** Mark Glovsky

**Also:** Superintendent Christopher Farmer, Mayor Carolyn Kirk, Jim Duggan, Barry Boyce, Brian Tarr, Greg Verga, members of the School Committee, Yoshi Campbell, Kristen Michel, Leora Urlich, Maureen Foster, Wendy Grier, Grace Ciaramitaro, Erika Hansen, Tanya Balinger, Alisha Cranston, Andrea Milne, Dan Kennedy, Mark Nestor, Lee Gallagher, Windover Development Justin Balbo, Betsy Hopkins, Thaddeus Siemasko, Tom Minetta, Dan Ottenheimer, Cynthia Carney, Paul Scola, Tim Miller, Doug Parsons, Sara Grow, Susan Destino, Val Gilman, Dan Ross, Karen Akenheimer, Sandra Eton, Jonathan Pope, Teresa Gove, Jane Cunningham, Doreen Wonson, Gregg Cademartori, Richard Gaines, Robert Whynott

**The meeting is called to order at 7 p.m.**

### **FLAG SALUTE & MOMENT OF SILENCE**

**Council President Tobey** provided an opening statement welcoming the new council, mayor and school committee members.

**Budget and Finance** is requested to review the status of expending under the bond for the CSO project to insure good reconciliation of expenses with bond proceeds, without council objection.

**Planning and Development** is requested to review compliance of the terms of the Cruise Port’s special council permit, without council objection.

The first meeting of the City Council and School Committee is tentatively scheduled for 2/25/08 at 6 p.m. in the O’Maley Auditorium.

### **ORAL COMMUNICATIONS**

#### **COUNCILLOR’S REQUESTS TO THE MAYOR**

**08-01 (Tobey)** Request that the Mayor direct the DPW Director to cease the practice of spreading dirt across the streets of the City in a misguided effort to control snow and ice.

**08-02 (Tobey)** Request that the Mayor obtain and share with the council financial statements of the status of the fire department overtime and the DPW snow and ice removal accounts as of the close of business, December 31, 2007.

**08-03 (Grow)** Request that the Mayor investigate conversion of the garbage collection service into an enterprise account thereby reducing the financial impact on the general fund.

**08-04 (Tobey, Curcuru)** Request that the Mayor direct the DPW director and the appropriate senior officer from the Police Department to make a concise but comprehensive presentation to the City Council regarding snow and ice storm procedures at the January 22, 2008 council meeting.

**08-05 (Foote) Emergency request** that the Mayor instruct the DPW to fill the potholes in city.

**08-06 (George)** Request the Mayor to have Public Properties fix the clock in the auditorium or find out why it is no longer working.

**08-07 (George)** Request the Mayor instruct the DPW look at Lincoln Street and the numerous deep potholes and very uneven surface of the road, especially near Mathieu Hill Road.

**08-08 (Devlin)** Request the Mayor instruct the DPW to repair the damage (depression) caused to the front left hand side of the driveway at 106 Magnolia Avenue. This damage was caused by Revoli Construction during the repair of the water main on Magnolia Avenue, as contracted by the City of Gloucester. Repairs were supposed to be made by Revoli almost two years ago. I respectfully ask that the DPW Director contact Revoli Construction to repair this damage or have the DPW handle the repairs internally.

**08-09 (Tobey)** Request that the Mayor arrange for a copy of the consultant report on the water and wastewater asset management planning effort be made available for inspection by councilors and the public in the City Clerk's office.

**08-10 (Grow)** Request the Mayor work with the city and schools to look at school facilities needed for adequate outside recreation.

**08-11 (Curcuro)** Request the Mayor provide and update on the scheduling of the installation of the new donated playground equipment at the Babson Reservoir Playground.

### **ELECTION OF INTERIM CITY AUDITOR**

**MOTION:** The Budget and Finance Committee voted 3 in favor, 0 opposed to recommend to the full City Council the election of Barry Boyce to interim City Auditor according to the terms and conditions mutually agreed to and set forth in the contract.

**Discussion.** **Councilor Grow** stated B&F met with Barry Boyce who is ready to meet the task of keeping current finances on track, unwind some existing problems and get the office in a state that will be able to get the new person up and running as quickly as possible.

**Councilor Ciolino** noted that Barry Boyce will not be applying for the position permanently; it is an interim position and he fully supports this election.

**MOTION:** On motion of Councilor Grow, seconded by Councilor Hardy the City Council voted by **ROLL CALL 9 in favor, 0 opposed the election of Barry Boyce to interim City Auditor according to the terms and conditions mutually agreed to and set forth in the contract.**

### **CONSENT AGENDA**

- **CHIEF ADMINISTRATIVE OFFICER PACKET**
  1. Request for Proposals relative to the Maplewood School (*Refer B&F*)
  2. Memo from Health Department requesting acceptance of a grant (*Refer B&F*)
  3. Memo from Police Chief requesting acceptance of a grant (*Refer B&F*)
  4. Packet from Fire Chief regarding overtime usage and Station Opening status (*Refer B&F*)
  5. Memo from City Auditor "Duty when appropriations are Exhausted" (*Refer B&F*)
- **INFORMATION ONLY**

Responses to various Council Requests
- **APPROVAL OF MINUTES**
  1. City Council Meeting: 12/11/2007 (*Approve/File*)
  2. City Council Meeting: 01/01/2008 (*Approve/File*)
- **ORDERS**
  1. CC2008-001 Consider the adoption of MGL chapter 71, section 37M **Tobey** (*Refer O&A, SC*)
  2. CC2008-002 Record opposition to changes in Open Meeting Law **Tobey** (*FCV 01/22/2008*)
  3. CC2008-003 Scheduling of February 2008 City Council meetings **Tobey** (*FCV 01/22/2008*)
  4. CC2008-004 Home Rule to exempt Chief of Police and Fire from MGL C 31 **Grow** (*Refer O&A*)

5. CC2008-005 Changes in the zoning of Fort Square & Commercial Streets... *Grow (Refer P&D,PB)*
6. CC2008-006 Designation of City Poet Laureate *Foote (FCV 01/22/2008)*

**ITEMS REMOVED FROM CONSENT AGENDA**

**Councilor Grow** removed Order 08-005

**Councilor Ciolino** removed CAO packet #1 – Maplewood Avenue School.

**MOTION: The consent agenda is adopted by UNANIMOUS consent of the full City Council with the exception of Order 08-005 and CAO packet #1.**

**Councilor Grow** provided clarification as to the intent of his order. This is not a request for a specific ordinance change; it is a request for an informal review with the hope that Planning Board and Planning and Development can get started on this at once – but he will await their recommendation before making a formal order.

**Amendment to Order 08-005 – to insert the words “informally” after Planning Board.**

**Councilor Ciolino** noted we have to be careful with procedure and asked to hear Mayor Kirk's thoughts on moving this forward.

**Councilor Tobey** stated the order is not being voted upon tonight and it is not the time for discussion.

**Councilor Grow** stated making this an informal review does not actually initiate the process of a zoning amendment.

**Councilor Ciolino** would still like to hear what the Mayor has to say about it.

**MOTION: It was moved and seconded and voted 8 in favor, 1 opposed (Ciolino) that Order 08-005, That the City Council, in conjunction with the Planning Board, informally review, recommend and enact changes in the zoning of the Fort along Fort Square and Commercial Streets (as well as Beach and Pascucci Courts (if necessary) from Marine Industrial to appropriate Commercial and Residential zones, be referred to both Planning Board and Planning and Development for recommendations on adoption as amended.**

**Councilor Ciolino** asked that item #1 of the CAO packet regarding the Maplewood School be referred to Budget and Finance and Planning and Development.

**MOTION: On motion of Councilor Ciolino, seconded by Councilor Romeo the City Council voted 9 in favor, 0 opposed to refer item #1 of the CAO packet regarding the Maplewood School to both Budget and Finance and Planning and Development.**

**MOTION: On motion of Councilor Hardy, seconded by Councilor Grow the City Council voted 9 in favor, 0 opposed to refer Addendum #2 to the Mayor's Report regarding the appointment of a building and designer selection committee to Ordinances and Administration.**

**MOTION: On motion of Councilor Hardy, seconded by Councilor Grow the City Council voted 9 in favor, 0 opposed to refer Addendum # to the Mayor's Report regarding Transfer 08-24 to Budget and Finance.**

**Mayor Kirk** provided an overview of her reorganization plans. She noted this is a preliminary overview for information only. She anticipates the formal request for referral out at the next Council meeting. She presented a diagram showing the existing organizational structure (*copy in*

*file*). She feels the span of control as it exists is too broad and has led in part to the breakdown in accountability. She will try to restore lines of authority and decision making frameworks by building the capacity in the Mayor's office to deliver what the city residents have come to expect – strong fiscal oversight, accountability, reform and revenue growth. She presented a diagram of her proposal for reorganization (*copy in file*). The Administrative Assistant and Budget Director are two different skill sets. The Mayor directly oversees Finance, Police, Fire, Personnel, Legal, DPW and Waterways. The Community Development Department has a director level currently vacant and includes Tourism, Shellfish, Conservation, Planning and Grants. She is trying to break that department apart so there is a clearly delineated Community Development Department to take on the harbor plan and an Economic Development Department to provide jobs, retention, etc. Within 6 months we will look at scenarios around harbor development. At the same time we have to be able to drive economic development in the city. She is trying to do all of this cost neutral. She has assigned a contract to release \$50,000 from the Seaport Bond Council; that money is available as soon as we decide who the harbor contract is and that has been decided. She is relying on Jim Duggan for the economic development piece, in using some Community Development Block Grant (CDBG) money to help economic development and impact, such as doing a waterfront inventory to show revenue results as a result of the growth. Organizational structure is important for better fiscal oversight, revenue growth and accountability in the organization.

#### **FOR COUNCIL VOTE**

FCV2008-001-Citations for Councilors Destino, McLeod, Peckham, Swekla and Mayor Bell

**MOTION: On motion of Councilor Hardy, seconded by Councilor Foote the City Council voted 9 in favor, 0 opposed to adopt Council Order 2008-01 to provide citations for Councilors Destino, McLeod, Peckham, Swekla and Mayor Bell.**

#### **SCHEDULED PUBLIC HEARINGS**

##### **Public Hearing #1**

**08-001: Loan Order 08-04 \$5,350,000 For School projects** *Continued from 12/11/2007*

**The public hearing is opened.**

**The \$1.9 million portion of this loan order is postponed.**

**Councilor Ciolino** stated this loan order is coming from another council and he would like to get some assurance that the new councilors can vote on this and that vote sticks.

**Council President Tobey** replied it is the ruling of the chair that matters such as this can carry forward from one council to another. Six votes in the affirmative are required for approval. This situation is additionally one that councilors do not have to be present at all prior hearings.

**Speaking in favor. Greg Verga, Chair Gloucester School Committee** stated the School Committee took a unanimous vote to reaffirm the direction set forth in the previous term. He provided a Power Point presentation on K-5 Status Update (*copy in file*).

**Superintendent Christopher Farmer, 27 Decatur Street** supports the loan order for the modulars. Small class size is a way of assuring we can reach all children effectively and he wishes the council courage this evening to do the right thing for Gloucester's children.

**Mayor Kirk, 16 Highland Street** reiterated her support for this plan. The School Committee implemented a two-year phased approach and the new councilors are coming into the middle of that implementation. When talked about the reduction in the elementary program from an 84 class district to a 71 or 72 class district (15% reduction) and the only way that can be accomplished is by closing schools. We have redistricted 500 children and 200 staff members as a temporary solution and we need to support this plan to bring that stability to our schools.

**Leora Ulrich, Stand for Children** represents the interests of children on Beacon Hill. Stand for Children has promoted and won key initiatives throughout the state and she believes the city can and must do its part to safeguard its own infrastructure. This was intended to be a one year challenge and funding the modulars will ease many of our space issues. Stand for Children asks the city to approve this loan order for 14 modulars.

**Mark Nestor, 15 Longhill Rd.** spoke as a parent in support of the loan order for the modulars. This is about educating our children and stopping the decline in the quality of educational services. He urged the council to vote in favor of this loan order.

**A community document written collaboratively as a city-wide PTO in support of the modulars was presented. Yoshi Campbell, 30 Uncas Rd., West Parish PTO, Kristen Michel, 864 Washington Street, Beeman, Leora Ulrich, Grandview Rd., Beeman/Plum Cove; Maureen Foster, 1130 Washington St., O'Maley, Wendy Crear, 13 Green St., Veteran's, Grace Ciaramitaro, 9 Grapevine Rd., E. Gloucester, Erika Hansen, 7 Wall St., E. Gloucester, Tanya Balinger, 10 Heath Heights, Fuller Fifth; Alisha Cranston, 119 Pleasant St., Veterans, Andrea Milne, 48 Friend St., Veterans, and Dan Kennedy, Veterans PTO.**

**Yoshi Campbell, 30 Uncas Rd.** spoke as a city wide PTO in support of the loan order for the modulars to stabilize and restore confidence in the school system, letting teachers and staff get on with the business of learning. The community invested in the plan for effective learning communities. She spoke to the impact of the redistricting. The redistricting caused great disruption all over the city – communities of support were uprooted and disbursed. We like that this is an equitable and sustainable plan for schools in Gloucester – we are getting 5 balanced small K-5 elementary community schools. The issue is not the buildings but the learning communities that are housed in those buildings. She urged the council to vote in favor of the loan order for the modulars.

**Kristen Michel, 864 Washington Street** is concerned if the loan order is not funded where our children will go next year. The absence of the current 5<sup>th</sup> graders was deeply felt at the elementary schools. The Fuller 5<sup>th</sup> is not a permanent solution. What will be the long term costs to our children and the impact of the adverse working conditions on teachers and staff. Disintegration of K-5 communities has affected the PTOs as well, who are now responsible for raising money for capital improvements. To remain viable, Gloucester must maintain a stable school system. We have to look at what school choice is costing the city; over \$1 million comes out of the budget to pay for students to attend other schools. She urged completion of the restructuring of our schools by approving the loan order to fund the modular classrooms.

**Cynthia Carney, 72 Eastern Avenue** as a teacher at Fuller 5<sup>th</sup> and a parent commented on the positive experience the 5<sup>th</sup> graders have had - students are thriving and growing in a very positive way. She strongly urged the council to reconsider the return of 5<sup>th</sup> grade to elementary schools. She respectfully requested they strongly consider putting the 5<sup>th</sup> grade with the middle school, wherever that may be. If it takes more than one year with 5<sup>th</sup> grade at Fuller she urged they take it. Fuller 5<sup>th</sup> looks forward to establishing a positive working relationship with the new school committee and the City Council.

**Paul Scola, 39 Cherry Street** is a parent of 2 children at Beeman. He stressed how Beeman was hit the hardest. Beeman's population increased 54% in one year without any change in the physical footprint of that building. With the return of the 5<sup>th</sup> grade, the overcrowding was so severe that actual construction trailers were placed in the playground. These overcrowded accommodations are unacceptable to citizens and taxpayers. If this overcrowding cannot be remedied, the parade of families opting for school choice will grow. He urged the council vote in favor of the loan order for the modulars to keep our schools intact.

**Tim Miller, 1 Gardner Terrace** spoke as a very frustrated parent of a Beeman student. We are severely overcrowded; we have lost recess and we don't have library, art room, music room or computer room. To this day his son has not taken out a library book or touched a computer. If



we are going forward with this, we need room. There is no space for a 5<sup>th</sup> grade class at Beeman. He hopes the council will go forward and approve the funding for these modulares.

**Doug Parsons, 39 Mt. Pleasant Avenue** believes in the plan. He has three grandchildren in the East Gloucester school system. Amy his daughter who sits on the school committee is very in favor of this plan but was unable to attend tonight.

**Sara Grow, 12 Marble Road** spoke as a parent of children at East Gloucester Elementary School. She spoke on the changes made in the school district, all to save money. This city has failed to provide for our students. The Mayor's platform was that parents can count on her commitment to children. Parents are committed to education and all of this saves the city money. We ask the council to show their commitment to education by voting in favor of this loan order to restore our communities.

**Susan Destino, 7 Starknaught Road** spoke from a teacher's point of view and collectively for the faculty at Plum Cove. Plum Cove teachers have not had the same rapport and privilege in watching former students mature to grade 5 and to provide support to those students. Once a child leaves our building we don't see them. There is a bonding between a child and a teacher; that another teacher outside of their current teacher does care about them. They do not have the buddy reading program. Children look forward to that experience and academic peer support. She asked the council to consider progressing to make Plum Cove a K-5 for next September, but please don't do it if we will still be in a crunch situation. "A teacher encourages tomorrow dreams if there is room to grow."

**Val Gilman, 75 Revere Street** spoke as a parent and member of Beeman/Plum Cove PTO; it is important that neighborhood schools work for our children. Every year we continue to lose people who choice out. The modulares are nice; they provide a nice working environment and are the wave of the future. She urged support for the loan order for the modulares.

**Dan Ross, 29 Reynard Street** spoke as the parent of a kindergartener. What right do we have to deny our children the ability to grow up with the same kids at the same time in the same place. Our children should have the same right to that as we did. He urged the council to vote in favor of this loan order.

**Karen Akenheimer, 288 Western Avenue** has two kids at West Parish and spoke in support of the loan order. We need the modulares to finish what was started. Please fund these modulares to bring stability to our community schools and let our children get back to the business of learning.

**Erika Hansen, 7 Wall Street** spoke in support of the loan order. As parents we urge completion of the redistricting voted last year to provide stability for our children, which is one of the most important things in their lives. Many have opted for school choice because they are tired of the instability. Support our K-5 communities and fund the loan order for the modulares to provide the stability our children need and deserve.

**Sandra Eton, 19 Nashua Avenue** has two children who have gone through the system at Beeman/Plum Cove and she cannot believe what has happened to that school – please make a decision to pass this.

**Jonathan Pope, 16 Marble Street** stated the critical thing is teachers in the classrooms, Ultimately there are \$240,000 in facilities savings by closing one of these large schools. The thing that hasn't been brought up is that one of these schools will be empty and you should be able to think of a way to use that; this is about stability and there is nothing that affects children more than

**Teresa Gove, 8 Linden Road** spoke as a teacher at Fuller and parent of a student at Beeman in support of the modulares. She is concerned about the time frame and how people will expect us to get back to that classroom within a two week time frame. She also stated Fuller has been a positive experience.

**Jane Cunningham, 11 Beacon Avenue** was first a teacher at West Parish and then a teacher at Gloucester High for 5 years. She spoke about school choice and class size and noted parents are nervous about this.

**Doreen Wonson, 6 Honeysuckle Road** noted the State of Massachusetts has \$2.5 billion in a rainy day fund. Some legislatures wanted to pass on some of that to communities that need money. Gloucester may receive \$1.5 million if this money is distributed to the cities. We should try to get that money; it is certainly needed. She supports the K-5 plan and would love to see her daughter go to Fuller for 6<sup>th</sup>, 7<sup>th</sup>, and 8<sup>th</sup>.

**Speaking in opposition. No one spoke in opposition.**

**Communications. Eileen Murphy, 6 Mason Court opposing the loan order. The e-mail was read into the record. (copy in file).**

**Rebuttal. Greg Verga** thanked Ms. Murphy for sending in the message but noted that these modulars are not temporary classrooms. In fact, 20% of school building is done with these prefabs. We have looked at making Fuller more than a central 5<sup>th</sup> grade, but unfortunately it doesn't fit the plan we have adopted after 3.5 years of planning.

**Questions. Councilor Grow** asked Everett Brown, Purchasing Agent to speak to the time frame of these modulars.

**Everett Brown, Purchasing Agent** presented a management planning guide showing all the different elements of the project. The design contract will be awarded on 2/7/08 and the deadline for the project to start is tentatively set for 4/14/08 with a completion date of 8/15/08 to allow a couple of weeks for the school administration to plan their move.

**Councilor Grow** asked Mayor Kirk for a commitment to maintain existing funding levels for the staffing and resource levels we currently have.

**Mayor Kirk** replied at a minimum, we need classrooms for the 4<sup>th</sup> graders to stay in the schools as 5<sup>th</sup> graders. In terms of the forecast for 09, the debt service is \$440,000 and there may be other options for financing year one of the debt. One year short term borrowing brings the number down to \$140,000, a significant difference. The provides a calculated risk on what we think interest rates are going to do and buys us time to start growing revenue. She will do her best to minimize actual cuts to the school department, but she is only one member of the school committee. She would provide the committee the flexibility to maintain the K-5 program but cannot as the Mayor promise the money will be spent in that manner.

**Councilor Grow** is concerned once it leaves the school committee in preparation of the budget – there will some commitment to maintaining that budget. We need to make sure we have teachers in those classrooms.

**Councilor Tobey** stated that during construction it is the norm to do short term borrowing and in doing so the cost will dramatically drop because on short term you only pay interest.

**Councilor Grow** stated with the prospect of a fairly significant debt in front of us and the concern on how this will impact the budget. He asked if the Mayor could provide a sense on how she will juggle these priorities.

**Mayor Kirk** will look to the Superintendent to give the best estimates of what the level service funding will be. Last year the School Department downsized the district by 15% and that \$1.2 million savings is every year and the hope in the early visibility is that the ex-potential increase will not be as dramatic. The downsizing of the program was a budget correction. The evacuation of either of the large schools is another correction of a 20% reduction in facilities. The same approach will be made on city departments – she will ask for a correction in their budgets and a reduction in the level of services. What we are doing right now is not sustainable. We are going to have to go through that same horrendous process with the city.

**Councilor Grow** stated the projected savings on the Fuller closure is \$230,000. He noted we haven't yet realized that entire savings but by closing Fuller we would realize that full savings.

**Mr. Verga** stated there is a savings this year. When we discussed creating Fuller 5<sup>th</sup>, we were assured we can shut off areas of the school that aren't being used.

**Councilor Grow** asked for the full cost of the installation of the modulars.

**Mr. Verga** replied the RFP will include that; it is turn key.

**Councilor Ciolino** asked if teachers and staff from Fuller go into the new modulars do we need any extra teachers in the system or will it just be a wash from one school to the others.

**Mr. Verga** replied basically 12 teachers will be disbursed between the elementary schools.

**Councilor Ciolino** asked what is going to happen to Fuller and what is going to happen to O'Maley. He feels a facilities plan would be appropriate for this council.

**Mr. Verga** stated that isn't in the realm of the school committee. At Fuller in addition to students we have a preschool and the administration. At O'Maley we have the transportation department and the buses. The Mayor's plan will look at both facilities.

**Councilor Romeo** is concerned about the SPED students going to West Parish.

**Superintendent Farmer** replied it is not an ideal situation but we are trying to move forward requesting the absolute minimum. Last year there were three self contained classrooms – this year a fourth class was added for literacy. In moving out to Fuller, we have located one SPED class at Veterans and two at West Parish. One of the plans for effective learning communities was to spread out the SPED classes among the schools in the district. The present intention was they will finish up at Beeman. If the council approves the loan order there will be some discussion of moving Plum Cove out quicker. This is another area where we are trying to do the best we can, making a minimum requirement on the facilities available.

**Councilor George** asked about custodial help at and how will one person clean that entire school.

**Mr. Verga** stated they have added contract services at Beeman to help with that. There is a disparity in those services and the question has been raised.

**Councilor George** asked will they hire back custodians as opposed to outside services.

**Mr. Verga** replied it would have to be reviewed by the School's Building and Finance Committee for what would be most cost effective

**Councilor George** stated right now electric heat is the most expensive and has that been factored into the costs.

**Mr. Verga** replied these modulars are a lot more efficient than the other buildings and noted that currently electric is among the cheaper fuel sources.

**Councilor George** asked for a brief overview of the project. An architect must be hired for actual placement of the modulars and she is concerned that once an architect is hired that we receive an update.

**Mr. Verga** replied the updates will be provided and Councilor Curcuru will be part of that building committee if the council votes in favor or the loan authorization.

**Councilor Curcuru** asked if a start date of 4/7<sup>th</sup> and a completion of 8/15<sup>th</sup> is a realistic time table

**Mr. Brown** replied yes.

**Councilor Curcuru** asked will there be one key contact person.

**Mr. Brown** replied there is a building committee and by law they have a tremendous amount of authority and there is a contract manager; for coordination and contractual problems he is always available.

**Councilor Curcuru** just wants to make sure there is a follow through on these.

**Mr. Brown** stated because of its size, the first project didn't have an architect and there were lessons learned from the first project. The work the architect is responsible for in modular construction is less than stick built.

**Mr. Verga** stated there is the possibility of hiring a Clerk of the Works and the start date for school has not been set.

**Mayor Kirk** asked the Superintendent to provide a report of what happened regarding the services that should have been provided for those modulars. That report will be reviewed in order to codify the lessons learned, so not to repeat them.

**Councilor Curcuru** asked are the costs realistic.

**Mr. Verga** stated the fact we have modulars on order gives us some pretty solid numbers.

**Councilor Grow** requests the Mayor work with the city and schools to look at school facilities needed for adequate outside recreation. The incoming modular for East Gloucester is taking up a good portion of the children's play area, which also serves as teacher parking lot.

**Mayor Kirk** stated we would investigate those situations where school property abuts city property.

**Councilor Devlin** asked about the slight modifications to an out building at Beeman.

**Mr. Verga** explained that in the late 70s that building was used as the music room. The sill needs some work and it will be incorporated with the modular work and will be used as a classroom.

**Councilor Devlin** asked are there any other schools that are on septic and will adding classrooms put stress on those.

**Mr. Verga** replied Plum Cove and West Parish may be able to connect to the sewer in both instances. We are investigating that as well.

**Councilor Devlin** noted there may be other costs associated with the modulares. Adding additional students means additional traffic and asked have we done anything to address the traffic issues – to widen the driveway area.

**Mr. Verga** replied yes, it has been discussed and would be part of the plan suggested by Councilor Grow.

**Councilor Hardy** has three schools in her ward. She has received many calls from people saying if something isn't done they are going to opt out. She asked do we have any projected growth figures for the city in the near future.

**Mayor Kirk** stated when the school committee originated this plan 1.5 years ago we floated a number of \$3.5 million. We never got a sign that this plan was unaffordable. The previous school committee would have never moved 500 children if we didn't think we couldn't finish Phase II of the redistricting and we are in the middle of this. She doesn't have a revenue/expense report on where we stand this fiscal year but in order to deliver the same diminished level of services for FY09 the cost is about \$2.9 million – it will require a package of solutions and her administration will go through every opportunity to streamline in order to close that gap. This is not an ideal situation, but the children have been moved and we have to finish up the business. On that basis she asked the City Council to take the vote in the affirmative to bring stability to that part of the puzzle and give her a little more time to bring stability to the financial situation in the city.

**Councilor Hardy** asked for help explaining to the people that their fire station in all likelihood will be shut down. How can we afford to increase the schools and close fire stations. How do we strike that balance.

**Mayor Kirk** sat with the Fire Chief today and noted his budget this year was a disaster. If he had full control over the policy guidelines the overtime could have gotten him through almost to the end of the year but his overtime account was exhausted in weeks. We are in a situation where when we know what the funding is we will control the allocation of overtime so that stations do not close. She has asked the Fire Chief to provide his recommendations on how he will get through the rest of this year.

**Councilor Hardy** asked where is the shared sacrifice going to be between the schools and the rest of the city.

**Mayor Kirk** stated the school department took the hit last year reducing its K-5 program by 15% (84 classrooms to 71) and the implementation of that cut was not handled well. Submitted with the budget was a capital request for modulares that weren't acted on for 6 months. If you take a two year view that the hit has already been taken on the schools, the goal is to stabilize that and provide enough flexibility so the schools aren't taking another hit.

**Councilor Hardy** stated surely the modulares aren't the only large expense of the schools. North Shore Vocational School will relocate on a new campus and how much that will cost the city.

**Mr. Verga** explained that back in the 1970s someone signed a contract that is extremely difficult to get out of.

**Councilor Hardy** asked if there has been any thought in turning Fuller School into a technical school.

**Mr. Verga** replied we have a vocational school and we are limited to what we can offer.

**Councilor Hardy** asked that be looked at.

**Mr. Verga** stated it all comes down to spending money to make money. The schools have been taking a hit for the last six years. We have looked at ways of increasing revenue and are open to new ideas. This is something that we could talk about in the joint meeting.

**Council President Tobey** added as well as the architect's report on the modulars.

**Councilor Hardy** would like to keep three schools in Ward IV.

**Councilor Romeo** is concerned about having only two weeks to transition a classroom and asked will they be working with teachers to make sure their transition goes smoothly.

**Mr. Verga** replied yes, it will not be a surprise to them.

**Council President Tobey** asked how many students have opted out of the district for the current school year 07-08.

**Mr. Verga** replied about 200 at a cost of \$5,000 per student.

**Council President Tobey** noted that is a total of \$1 million and we stand to lose another 80 students because of brewing discontent.

**The public hearing is closed.**

**MOTION:** The Budget and Finance Committee voted 2 in favor, 0 opposed to recommend to the full City Council Loan Order 08-04 (b), ordered that \$3,450,000 is appropriated for the purchase and installation of fourteen factory built classrooms and connecting corridors; that to meet the appropriation the Treasurer with the approval of the Mayor is authorized to borrow \$3,450,000 and issue bonds or notes therefore under G.L., c. 44, Sec. 7 or any other enabling authority; and that the Mayor is authorized to take any other action necessary to carry out this project.

**Discussion.** **Councilor Grow** spoke in support of this loan order. Although this isn't the best plan it is a plan put together to try to deal with the principles of effective learning communities during a budget crisis. This loan order reestablishes stability for the children and reconnecting them with their community. It is a difficult decision – there are competing concerns within our own wards but we have an obligation to commit to the children of this community. Good schools are economic energy and this community is going to have to consider an override to allow us to begin the process of setting aside reserves to deal with these problems.

**Councilor Devlin** went to Veteran's Memorial during a time they took K-5 out and put 4<sup>th</sup> in Fuller; so it has happened before. He supports this loan order to get the schools stabilized but would like the Mayor to continue stabilizing the rest of the city as well.

**Councilor Foote** spoke in support of the loan order. All of this is going to cost money but most of the calls he has received were concerned about where their children were going to go. They are concerned about school choice – it will take over if we do nothing. The vocational school is not something that is easy to get out of. This plan, although not perfect, is for our children.

**Councilor George** spoke in support of this loan order although she is not sure this is the best plan, but it is the one in front of us. She has a lot of concern about the infrastructure of our schools; we have old elementary schools. She is putting her trust in the Mayor.

**Councilor Curcuru** during his campaign promised to bring pride back to the community. He supports this project even though it isn't the perfect plan.

**Councilor Romeo** spoke in support of this plan. She agrees with Councilor Hardy that you can't cripple one part of the city to help another part of the city. It is difficult because we as a whole community are losing so much. We made a commitment when we ran to work as a team. Music, art and recess are all part of learning and if we don't educate our children from the ground up, we

can't complain about our crime rate. This time we have to work from the inside out – we have to help our children because not everyone has what we have at home.

**Councilor Ciolino** also spoke in support. He worked with the Building Center that brought the first modular construction to the city. These modular units are as good as anything stick built. He sees these modulars as an investment. We are all in agreement that we have big problems that we need to break down into manageable pieces. One of the things that came up constantly during the election was the overcrowded conditions of the schools.

**Council President Tobey** spoke in favor, but views his vote as being more than money spent to buy 14 structures. His vote yes is endorsement of the Gloucester School Systems mission statement. No issue is more important. We do need to keep our attention clearly focused; as we plan the next fiscal year we are going to have to take some pretty tough stands if we are going to get out of this. To deal with the other part of the equation expectations have to reflect that but it is investment to make things better. We are voting to build a new school spread out over different locations but at a fraction of the cost. The state isn't giving any money and a significant part of our problem has been the state that has systematically abandoned its cities and towns. Don't lose sight that the equal education opportunity rights of our children are being denied every single day.

**MOTION: On motion of Councilor Grow, seconded by Councilor Romeo the City Council voted by ROLL CALL 9 in favor, 0 opposed Loan Order 08-04 (b), ordered that \$3,450,000 is appropriated for the purchase and installation of fourteen factory built classrooms and connecting corridors; that to meet the appropriation the Treasurer with the approval of the Mayor is authorized to borrow \$3,450,000 and issue bonds or notes therefore under G.L., c. 44, Sec. 7 or any other enabling authority; and that the Mayor is authorized to take any other action necessary to carry out this project.**

**A five minute recess was called at 10:30 p.m.**

**The meeting reconvened at 10:35 p.m.**

#### **Public Hearing #2**

**08-002: SCP# 2007-19- 14 Cliff Avenue: Major Project pursuant to Section 5.7 *Cont. from 12/11/2007***

**The public hearing is opened.**

**Speaking in favor. Lee Gallagher, President, Windover Development Justin Balbo, Betsy Hopkins, Thaddeus Siemasko, Tom Minetta, Dan Ottenheimer.** Windover purchased the ShoreCliff property and wanted to find out neighbor issues before designing the present project, a 12 unit condo complex designed to fit the site and much smaller then project previously approved. The neighbors have been very supportive. We have greatly reduced outside parking by putting parking under the building. We will tear down the existing building and will minimize the amount of rock that will be taken out for the underground parking. We went to the ZBA for dimensional requirements, and to the Planning Board and Planning and Development and Conservation Commission where we received approval.

**Thaddeus Siemasko, Architect** presented the basic site plan. The site consists of two acres with a part of this project being to restore the park, in particular a historic gazebo. We have rotated the building to leave that in place. The 12 units will have an entrance into underground parking garage with two parking spaces per unit contained in the building. All trash will also be located within the building and many units have elevators up into their units. Because of topography issues and not wanting to disturb the mature landscaping and ledge outcroppings we tried to keep it within the footprint. The guest parking is located in the upper lot. From a neighbor's perspective the majority of the traffic will be in the garage. The neighbors are happy with the design. We have provided a comprehensive landscape plan which includes patio ways and a

secondary tier that connects into the park. The units are all 3 bedrooms generally townhouse types. The goal was to maintain as much existing landscaping as possible with minimal impact to the neighborhood. We esthetically settled on a cottage style architecture using natural shingles with dark green shutters and a stone foundation. These units are not typical; they are not a repeat of 12 units they all have a uniqueness to them. The intention was to have it look like a large home. The building is 35' high but we do step it down to follow the contour of the site. The approved assisted living was a 40' – this is essentially one story lower. The lighting plan conforms to Gloucester's lighting ordinance. The overall goal was to design as low an impact project to this neighborhood as possible.

**Dan Ottenheimer, Mill River Consulting** provided details of the engineering plan of the sewerage treatment system. There is an existing sewerage treatment plant that has a permanent discharge pipe out to the ocean. It is licensed by the state and we are proposing to upgrade every one of those treatments components and moving the components outside of the 100' setback and provide high quality waste water treatment and disinfection before it enters the discharge pipe and out into the ocean.

**Tom Minetta** provided an overview of the storm water management plan that conforms to state and city engineering department requirements. Roof runoff will be collected into a detention basin and discharge is in same location as previous due to topography of the site.

**Speaking in opposition.** No one spoke in opposition.

**Communications.** None.

**Questions.** **Councilor Ciolino** asked what has happened to the gazebo.

**Mr. Gallagher** replied the historical significance of the gazebo has been brought to our attention and the plan is to keep it in the present location and to restore it.

**Councilor Ciolino** asked if they would agree to put a bronze plaque on that to tell about the historical significance of it.

**Mr. Gallagher** agreed.

**Councilor Ciolino** asked about the lot next door and if that is built upon now.

**Mr. Gallagher** stated the homestead garden is owned by Windover and we did grant a view easement. We agreed to restore these gardens and not to build on it.

**Councilor Curcuru** asked for an overview of the monitoring of the facility.

**Mr. Ottenheimer** stated the facility will be monitored by both state and local government. There will be a lot of oversight and in the event of operational problems there will be direct dial to a 24 hour maintenance company.

**Councilor Grow** noted tax generation on these new units will be close to \$150,000.

**Mr. Gallagher** stated the units will sell between \$1.2 and \$1.5 million.

**Councilor Romeo** asked if the low income unit will be provided on site or off.

**Mr. Gallagher** replied it will be off site but we haven't chosen the site.

**Gregg Cademartori, Planning Director** stated they will be creating an affordable unit that will be deed restricted. Recommendations of the Planning Board were vetted at Planning and Development. The applicant has to abide by the ordinance and they have elected to create a unit off site.

**Councilor Romeo** would like to know the time limits on the promise to build affordable units.

**Mr. Cademartori** replied the ordinance is clear on when the unit has to be provided. That is why the ordinance is set up that it has to be provided before the issuance of the first occupancy permit.

**MOTION: On motion of Councilor Grow, seconded by Councilor Hardy the City Council voted 9 in favor, 0 opposed to extend the meeting to 11:30 p.m.**

**The public hearing is closed.**

The six special permit criteria pursuant to Section 1.4.2.2(e) as follows:

1. **Social, economic and community needs served by the proposal:** The project will provide twelve (12) dwelling units which will be served by under-building parking and elevators and which will provide secure, high-end housing as an alternative for Cape Ann area residents who desire to “down-size”, avoid responsibilities relating to ownership of detached, single-family housing, or prefer to live in a shared environment.
2. **Traffic flow and safety:** The project will generate fewer vehicle trips than the forty-eight (48) unit assisted living facility which was previously approved for the site. All required parking will be located in garages below the building and will be accessed from Cliff Avenue. Guest parking will be available on site and, therefore, off-site parking will be minimized.
3. **Adequacy of utilities and other public services:** The proposed building will be served by City water and by an on-site sewerage treatment plant which operates pursuant to a National Pollutant Discharge Elimination System (“NPDES”) Permit issued by the Environmental Protection Agency and the Department of Environmental Protection. It is anticipated that the plant will be upgraded to satisfy more stringent requirements than originally attached to the NPDES Permit. If it is determined that the City water lines which serve the site and/or nearby hydrants require upgrading, the Applicant is prepared to complete such improvements.
4. **Neighborhood character and social structure:** The shingle-style building has been designed to be architecturally compatible with larger, existing oceanfront homes in the Magnolia neighborhood and to be appropriate for the site. The mass and siting of the building respect abutting properties and existing views. The residential use is more appropriate for the social structure of the neighborhood than the prior nursing home or approved assisted living facility.
5. **Qualities of the natural environment:** The “Olmstead” gardens on the property have been protected by the granting of a “view easement”; variances have been obtained to avoid removal of significant ledge outcroppings on the site; and work has been minimized within one hundred (100’) of the “coastal bank.”
6. **Potential fiscal impact:** The property has previously been classified as “exempt” for tax purposes. It is anticipated that the proposed improvements, when completed and fully assessed, will generate approximately \$150,000 in annual real estate tax revenue. This significant increase in tax revenue will be accomplished without a corresponding increase in demand for City services as it is unlikely that there will be school age children on the property. Additionally, the Applicant has agreed to complete off-site improvements, including the repaving of Cliff Avenue and water line upgrades, if necessary.

MOTION: The Planning and Development Committee voted 3 in favor, 0 opposed to recommend to the full City Council the granting of a special Council permit to recommend to the full City Council the granting of a Special Permit for a Major Project to Windover Properties, LLC according to section 5.7 (Major Projects – Multi-family dwelling involving 21 or more bedrooms, or 11 or more dwelling units) of the Gloucester Zoning Ordinance at 14 Cliff Avenue, Map 167 Lots 13 & 14; conditioned as follows:

Applicant’s proposed conditions:

1. Final Wastewater Treatment Plant Upgrade Design Plans and all correspondence with DEP and EPA relating thereto, and all operations and maintenance system reports, updates and revisions, of the stormwater and wastewater systems, now and in the future, shall be forwarded to the following city departments: Engineering, Community Development and Health Department.
2. The design for the wastewater treatment plant shall include separated electrical circuits for pumps and alarms and shall have a backup generator wired in for immediate switchover in event of power failure.



3. The Applicants shall provide funds for an independent construction review account to inspect and oversee construction of the wastewater treatment facility. Such funds shall not exceed \$5,000.00 and shall be managed by the Planning Department.
4. Updated and current Contact information (Company name, address, emergency 24/7 phone numbers, cell phone numbers and personnel contact names) of the Wastewater Operator responsible for the Operation and Maintenance of the Wastewater Treatment Facility shall be provided to the following city departments: Engineering, Community Development, Health Department. AND the Department of Public Works.
5. One affordable unit compliant with the requirements of Section 5.11 of the Zoning Ordinance shall be provided either on-site or off-site and shall be approved and permitted by the Inspector of Buildings prior to the issuance of any occupancy permits for the subject project.
6. Water service connecting to the subject property requiring work within Cliff Avenue and repaving of Cliff Avenue shall be performed at the cost of Applicant and shall comply with all applicable road opening and paving requirements of the City of Gloucester.
7. All site lighting shall be in compliance with the lighting provision of the Code of Ordinances. Details shall be provided to the Building Inspector prior to installation.
8. All installed landscaping shall be of New England native species and shall not include any species listed in *The Invasive Plant Atlas of New England* maintained by the New England Wildflower Society.
9. That the proposed building will be completely sprinklered to current Fire Codes (NFPA 13).
10. That the existing separate fire service water line for the sprinkler system or a new water supply line for building fire services must be installed separate from the domestic water line.
11. That the Master Box Fire Alarm system be installed and maintained by the property owner in accordance with the specifications, rules, regulations and fees, if any, of the Gloucester Fire Department.
12. Standpipes shall be installed and sized to the proper connection size required by the Gloucester Fire Department.
13. That the enclosed portions of the underground garage be engineered for proper ventilation so as to safely remove smoke and chemicals and these areas are also to be equipped with carbon monoxide detection units sized and approved by the Gloucester Fire Department.
14. That the detail work for code compliance for the fire department connection locations, fire/smoke detection, manual fire pull stations and audible fire warning horn strobes are to be reviewed at the construction plan review level, during construction and/or prior to final occupancy permit sign off by the Fire Department.
15. All roof run-off is to be gathered by a collection system and disposed of in the proposed roof drain drywell and detention pond(s).
16. That in accordance with the Performance and Design Standards of the Gloucester Subdivision Stormwater Management Regulations, neighboring properties shall not be adversely affected by flooding from excessive runoff.
17. That the Applicant will be required prior to any structure being attached to the foundation to submit the following to the Engineering Dept:
  - a. As-built foundation plan stamped and approved by a registered land surveyor or professional registered civil engineer, including top and concrete grade, bottom of footing grade, grade of sanitary/septic outlet, and also including lot line offsets to all property lines to conform to zoning, as the same has been modified by Variances granted by the Gloucester Zoning Board of Appeals by Decision filed with the City Clerk on August 31, 2007.
  - b. Final grading including all drainage structures, driveway grades, and edge of street grades conforming to the proposed plan stamped by a registered professional civil engineer responsible for the drainage design.

- c. It is to be the responsibility of the Applicant to ensure that all state and municipal requirements are met. These may include review by the Conservation Commission, Health Department, Zoning Board, Planning Board, and/or Building Inspector.
18. **That an appropriately sized engraved bronze plaque be attached to the historical gazebo with historical data as provided by the Magnolia Historical Society.**
19. In accordance with Section 5.7.6 of the Gloucester Zoning Ordinance, the execution of this project shall not materially deviate from the supporting documentation, either written or oral, without explicit Council authorization, which may be granted without further public hearing if deviations are deemed minor by the Gloucester Building Inspector and the Office of Community Development.

**Discussion.** Councilor Hardy feels this meets the six special council permit criteria and she supports the project.

Councilor Devlin feels this has been thoroughly reviewed and that the applicant has been very thorough in addressing neighbors concerns. He will be supporting this.

Councilor Ciolino supports the project. Two years ago it was ShoreCliff with a lot of opposition and now there is a total turnaround with the neighbors. They are very happy this project is going forward.

Councilor Romeo also spoke in support.

Councilor Foote also spoke in support.

**MOTION:** On motion of Councilor Hardy, seconded by Councilor Devlin the City Council voted by ROLL CALL 9 in favor, 0 opposed the granting of a special Council permit to recommend to the full City Council the granting of a Special Permit for a Major Project to Windover Properties, LLC according to section 5.7 (Major Projects – Multi-family dwelling involving 21 or more bedrooms, or 11 or more dwelling units) of the Gloucester Zoning Ordinance at 14 Cliff Avenue, Map 167 Lots 13 & 14; conditioned as follows:

**Applicant's proposed conditions:**

1. Final Wastewater Treatment Plant Upgrade Design Plans and all correspondence with DEP and EPA relating thereto, and all operations and maintenance system reports, updates and revisions, of the stormwater and wastewater systems, now and in the future, shall be forwarded to the following city departments: Engineering, Community Development and Health Department.
2. The design for the wastewater treatment plant shall include separated electrical circuits for pumps and alarms and shall have a backup generator wired in for immediate switchover in event of power failure.
3. The Applicants shall provide funds for an independent construction review account to inspect and oversee construction of the wastewater treatment facility. Such funds shall not exceed \$5,000.00 and shall be managed by the Planning Department.
4. Updated and current Contact information (Company name, address, emergency 24/7 phone numbers, cell phone numbers and personnel contact names) of the Wastewater Operator responsible for the Operation and Maintenance of the Wastewater Treatment Facility shall be provided to the following city departments: Engineering, Community Development, Health Department. AND the Department of Public Works.
5. One affordable unit compliant with the requirements of Section 5.11 of the Zoning Ordinance shall be provided either on-site or off-site and shall be approved and permitted by the Inspector of Buildings prior to the issuance of any occupancy permits for the subject project.
6. Water service connecting to the subject property requiring work within Cliff Avenue and repaving of Cliff Avenue shall be performed at the cost of Applicant and shall

comply with all applicable road opening and paving requirements of the City of Gloucester.

7. All site lighting shall be in compliance with the lighting provision of the Code of Ordinances. Details shall be provided to the Building Inspector prior to installation.
8. All installed landscaping shall be of New England native species and shall not include any species listed in *The Invasive Plant Atlas of New England* maintained by the New England Wildflower Society.
9. That the proposed building will be completely sprinklered to current Fire Codes (NFPA 13).
10. That the existing separate fire service water line for the sprinkler system or a new water supply line for building fire services must be installed separate from the domestic water line.
11. That the Master Box Fire Alarm system be installed and maintained by the property owner in accordance with the specifications, rules, regulations and fees, if any, of the Gloucester Fire Department.
12. Standpipes shall be installed and sized to the proper connection size required by the Gloucester Fire Department.
13. That the enclosed portions of the underground garage be engineered for proper ventilation so as to safely remove smoke and chemicals and these areas are also to be equipped with carbon monoxide detection units sized and approved by the Gloucester Fire Department.
14. That the detail work for code compliance for the fire department connection locations, fire/smoke detection, manual fire pull stations and audible fire warning horn strobes are to be reviewed at the construction plan review level, during construction and/or prior to final occupancy permit sign off by the Fire Department.
15. All roof run-off is to be gathered by a collection system and disposed of in the proposed roof drain drywell and detention pond(s).
16. That in accordance with the Performance and Design Standards of the Gloucester Subdivision Stormwater Management Regulations, neighboring properties shall not be adversely affected by flooding from excessive runoff.
17. That the Applicant will be required prior to any structure being attached to the foundation to submit the following to the Engineering Dept:
  - a. As-built foundation plan stamped and approved by a registered land surveyor or professional registered civil engineer, including top and concrete grade, bottom of footing grade, grade of sanitary/septic outlet, and also including lot line offsets to all property lines to conform to zoning, as the same has been modified by Variances granted by the Gloucester Zoning Board of Appeals by Decision filed with the City Clerk on August 31, 2007.
  - b. Final grading including all drainage structures, driveway grades, and edge of street grades conforming to the proposed plan stamped by a registered professional civil engineer responsible for the drainage design.
  - c. It is to be the responsibility of the Applicant to ensure that all state and municipal requirements are met. These may include review by the Conservation Commission, Health Department, Zoning Board, Planning Board, and/or Building Inspector.
18. That an appropriately sized engraved bronze plaque be attached to the historical gazebo with historical data as provided by the Magnolia Historical Society.
19. In accordance with Section 5.7.6 of the Gloucester Zoning Ordinance, the execution of this project shall not materially deviate from the supporting documentation, either written or oral, without explicit Council authorization, which may be granted without

further public hearing if deviations are deemed minor by the Gloucester Building Inspector and the Office of Community Development.

**MOTION:** The SCP for 14 Cliff Avenue, Windover Properties, LLC is referred to the Legal Department for a written decision by UNANIMOUS consent of the full City Council.

**Public Hearing #3**

08-003: SCP #2007-24: 91 Riverview Road: Lowlands permit 5.5.4 *Cont until 01/22/2008*

The public hearing is opened and continued to 1/22/08.

**Public Hearing #4**

08-004: SCP #2007-23: 71, 73, 79 Concord Street: Major Project, Shopping Center *Cont until 01/22/2008*

The public hearing is opened and continued to 1/22/08.

**Public Hearing #5**

08-005: Council Order 2007-44: Amend 22-284 Rogers Street *Continue until 01/22/2008*

The public hearing is opened and continued to 1/22/08.

**Public Hearing #6**

08-006: SCP #2007-25: 33 Emerson Avenue: 5.22 Wind Turbine *Continue until 01/22/2008*

The public hearing is opened and continued to 1/22/08.

**Public Hearing #7**

08-007: Rules and Regulations pertaining to the Acceptance of Private Sewers and Chapter 23, Utilities, Section 23-24(a) (1) Sewer Betterment Assessments *Continued from 12/11/2007*

The public hearing is opened and continued to 1/22/08 at the request of Councilor Devlin.

Councilor Devlin has set up a public meeting on 1/17<sup>th</sup> at the GHS Auditorium 7 p.m. This is just so the neighbors get an opportunity to speak their minds.

Councilor Grow noted B&F will also be reviewing Page/Way Street

Councilor Grow requested the Page/Way Street public hearing be continued to 2/12/08.

**Public Hearing #9**

08-008: Council Order 2007-40: Amend 22-159, 22-291 Davis and Chapel Street *Continue until 01/22/2008*

The public hearing is opened and continued to 1/22/08.

**COUNCILLOR'S REQUESTS OTHER THAN TO THE MAYOR**

It was moved and seconded to adjourn the meeting at 11:18 p.m.

Respectfully submitted,

June Budrow

Clerk of Committees

APPLICATION FOR REZONING

CITY CLERK  
GLOUCESTER, MA

08 JAN 16 AM 11:42

Paid \$350.00  
✓ #6566 *AP*

App. No. \_\_\_\_\_

Date January 16, 2007

TO THE CITY COUNCIL OF THE CITY OF GLOUCESTER, MASSACHUSETTS:

I (~~We~~), the undersigned, do hereby respectfully make application and petition the City Council to amend the Zoning Ordinance of the City of Gloucester as herewith requested, and in support of this application the following facts are shown:

1. The property sought to be rezoned is located at:

Street: rear 82 Bass Avenue

On the north side of the street, known as lot number portion of # 82

Has depth of SEE ATTACHED PLAN Frontage of \_\_\_\_\_ feet

2. Present zoning classification R-3

3. Proposed classification EB

4. The following are all of the individuals, firms, or corporations owning property adjacent to both sides and rear, and the property in front of (across the street from) the property to be rezoned:

NAME

STREET

CITY OR TOWN

SEE LIST ATTACHED

(Please attach extra sheet for more names)

5. It is proposed that the property will be put to this use: The 110' by 29' rectangular strip of land and a small triangular piece of land, being Lots 1A and 1B on attached plan, to be rezoned will be annexed to the adjacent lot now zoned EB and will continue to be used for parking for the commercial property.
6. It is proposed to construct the following buildings:

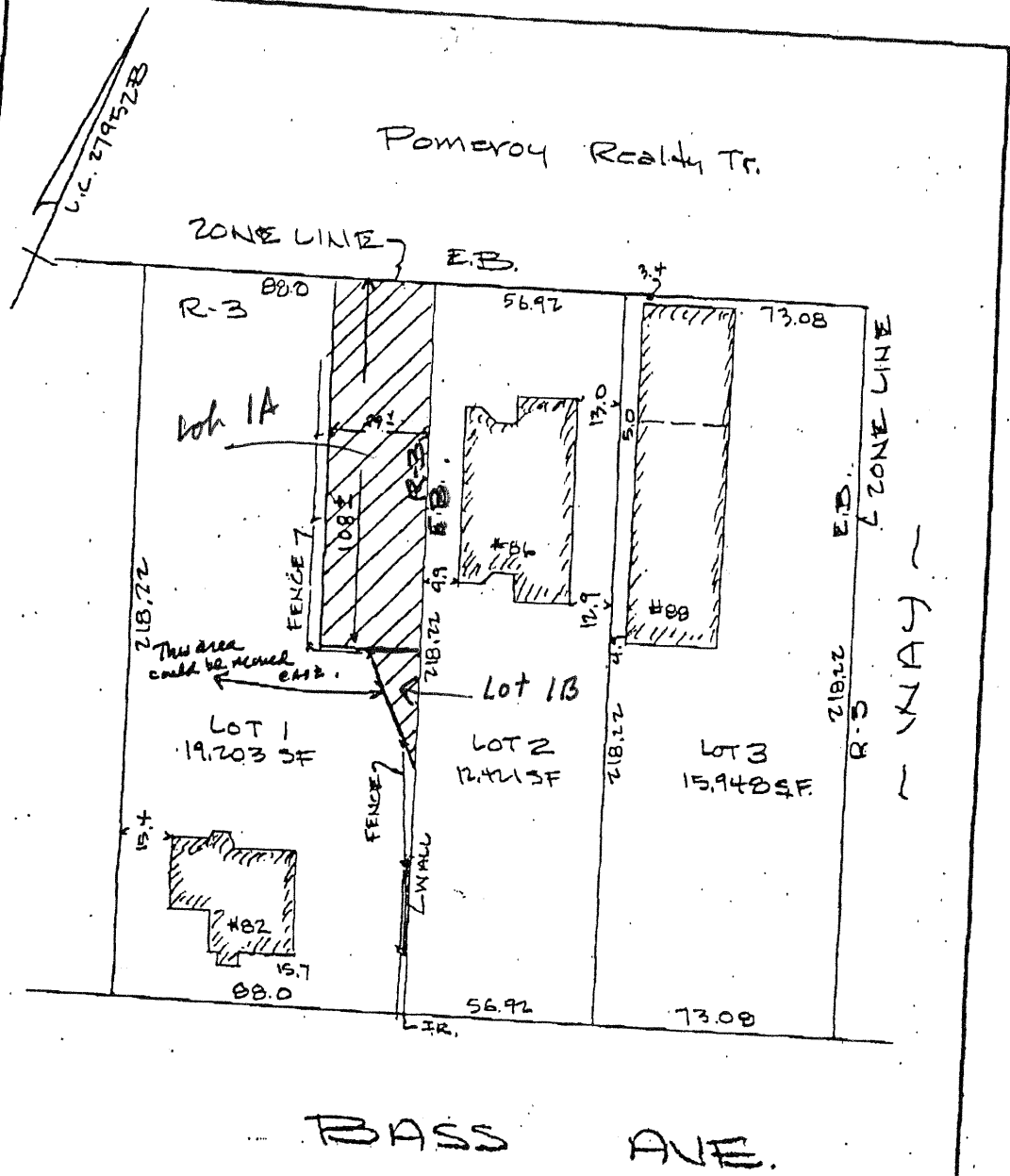
NONE

7. Attached is a copy of the required map which shows my property and surrounding area, with all abutters indicated with their names and addresses.

SIGNATURE AND ADDRESS OF OWNER:

*Aran Patrican*  
Aran Patrican  
82 Bass Ave, Gloucester

SIGNATURE OF PETITIONER:



PLAN OF LAND  
IN

GLOUCESTER

PREPARED FOR

RICHARD NOONAN

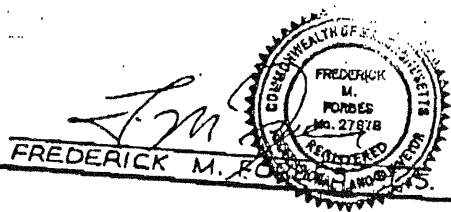
SCALE: 1" = 40 11/11/08

RURAL LAND SURVEYS

6 RURAL AVE. - BILLERICA, MA.

I HEREBY CERTIFY THAT  
THE BUILDINGS SHOWN HEREON  
ARE LOCATED ON THE GROUND  
AS SHOWN.

1/11/08  
DATE



FREDERICK M. FORBES

28



# CITY OF GLOUCESTER

GLOUCESTER, MASSACHUSETTS - 01930

## REQUEST FOR ABUTTER'S LIST

TO: BOARD OF ASSESSORS

FROM: [Signature]

Signature / Department

SUBJECT PARCEL: Map 185 Lot 46 Unit \_\_\_\_\_ Area \_\_\_\_\_

OWNER / ADDRESS: 82 Bass Ave  
(To be filled out by Assessor)

4% BETTERMENT EXTENSION Yes \_\_\_\_\_ No \_\_\_\_\_ Date \_\_\_\_\_  
(To be filled out by Assessor)

### LIST OF ABUTTERS:

|                |                |            |           |           |            |
|----------------|----------------|------------|-----------|-----------|------------|
| MAP <u>185</u> | LOT <u>49</u>  | UNIT _____ | MAP _____ | LOT _____ | UNIT _____ |
| MAP <u>185</u> | LOT <u>54</u>  | UNIT _____ | MAP _____ | LOT _____ | UNIT _____ |
| MAP <u>185</u> | LOT <u>152</u> | UNIT _____ | MAP _____ | LOT _____ | UNIT _____ |
| MAP <u>185</u> | LOT <u>55</u>  | UNIT _____ | MAP _____ | LOT _____ | UNIT _____ |
| MAP <u>185</u> | LOT <u>60</u>  | UNIT _____ | MAP _____ | LOT _____ | UNIT _____ |
| MAP <u>185</u> | LOT <u>53</u>  | UNIT _____ | MAP _____ | LOT _____ | UNIT _____ |
| MAP <u>185</u> | LOT <u>44</u>  | UNIT _____ | MAP _____ | LOT _____ | UNIT _____ |
| MAP <u>185</u> | LOT <u>45</u>  | UNIT _____ | MAP _____ | LOT _____ | UNIT _____ |
| MAP <u>185</u> | LOT <u>42</u>  | UNIT _____ | MAP _____ | LOT _____ | UNIT _____ |
| MAP <u>185</u> | LOT <u>52</u>  | UNIT _____ | MAP _____ | LOT _____ | UNIT _____ |
| MAP <u>66</u>  | LOT <u>16</u>  | UNIT _____ | MAP _____ | LOT _____ | UNIT _____ |
| MAP <u>66</u>  | LOT <u>15</u>  | UNIT _____ | MAP _____ | LOT _____ | UNIT _____ |
| MAP <u>66</u>  | LOT <u>34</u>  | UNIT _____ | MAP _____ | LOT _____ | UNIT _____ |
| MAP _____      | LOT _____      | UNIT _____ | MAP _____ | LOT _____ | UNIT _____ |
| MAP _____      | LOT _____      | UNIT _____ | MAP _____ | LOT _____ | UNIT _____ |
| MAP _____      | LOT _____      | UNIT _____ | MAP _____ | LOT _____ | UNIT _____ |

# City of Gloucester, Abutters List

## Report Description:

Abutters To Parcel... 82 Bass Avenue

Please be aware that the abutters list reflects mailing addresses for the real estate tax bills as requested by the property owners. Mortgage companies, banks and other financial institutions may be receiving the notification and not the homeowner as required. Please be sure you are complying with notification requirements.  
Gloucester Board of Assessors

| Abutter                                    | Street Address | Parcel No. | Mailing Address                                                               |
|--------------------------------------------|----------------|------------|-------------------------------------------------------------------------------|
| 1 66 15<br>MARKS JOHN R                    | 77 BASS AV     | 66 15      | 77 BASS AV<br>GLOUCESTER MA 01930                                             |
| 2 66 16<br>SANTANA MANUEL S & ELVA P TBYE  | 75 BASS AV     | 66 16      | 75 BASS AVENUE<br>GLOUCESTER MA 01930 0000                                    |
| 3 66 34<br>LODUCA NICOLO TR                | 83 BASS AV     | 66 34      | PO BOX 124<br>GLOUCESTER MA 01930                                             |
| 4 185 42<br>HILDONEN EDITH M               | 78 BASS AV     | 185 42     | 78 BASS AVE<br>GLOUCESTER MA 01930 0000                                       |
| 5 185 44<br>MOUREY WILLIAM J TBYE & PAULIN | 80 BASS AV     | 185 44     | 80 BASS AVENUE<br>GLOUCESTER MA 01930 0000                                    |
| 6 185 45<br>TIERNAN CHARLES M              | 80R BASS AV    | 185 45     | 89 BASS AVE<br>GLOUCESTER MA 01930 0000                                       |
| 7 185 46<br>PATRICAN ARAN <i>LOCUS</i>     | 82 BASS AV     | 185 46     | 82 BASS AV<br>GLOUCESTER MA 01930                                             |
| 8 185 49<br>PATRICAN LOUIS J & EDMUND L TR | 88 BASS AV     | 185 49     | 4 ATLANTIC ROAD<br>GLOUCESTER MA 01930 0000                                   |
| 9 185 52<br>POMEROY REALTY TRUST           | THATCHER RD    | 185 52     | QUINCY CENTER PLAZA<br>1385 HANCOCK ST-TAX DEPT #8 FL<br>QUINCY MA 02169 0000 |
| 10 185 53<br>POMEROY REALTY TRUST          | 6 THATCHER RD  | 185 53     | C/O STOP & SHOP SUPERMARKET CO<br>1385 HANCOCK ST<br>QUINCY MA 02169-0000     |
| 11 185 54<br>NORTON LOUIS A & ELINOR       | 96 BASS AV     | 185 54     | 16 ROCKLYN DR<br>WEST SIMSBURY CT 06092                                       |



# City of Gloucester, Abutters List

**Report Description:**

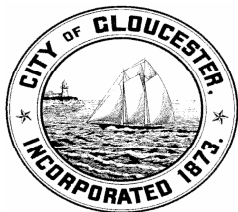
Abutters To Parcel... 82 Bass Avenue

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Gloucester Board of Assessors

| Abutter                                    | Street Address | Parcel No. | Mailing Address                                                      |
|--------------------------------------------|----------------|------------|----------------------------------------------------------------------|
| 12 185 55<br>MASON MELVIN F & MARY JEAN    | 98 BASS AV     | 185 55     | 98 BASS AV<br>GLOUCESTER MA 01930                                    |
| 13 185 60<br>BEARD ROBERT W TBYE & MARILYN | 4 THATCHER RD  | 185 60     | 104 BASS AVE<br>GLOUCESTER MA 01930 0000                             |
| 14 185 152<br>MERING DAVID TR              | 6 THATCHER RD  | 185 152    | 6 THATCHER ROAD REALTY TRUST<br>6 THATCHER RD<br>GLOUCESTER MA 01930 |

BOARD OF ASSESSORS  
CITY HALL  
DALE AVENUE  
GLOUCESTER, MA 01930

*B. Brown*



# **GLOUCESTER CITY COUNCIL 2008**

## **COMMUNICATION**

**RECEIVED: 01/22/2008**

**NUMBER: COM2008-001**

**NUMBER OF PAGES: 1**

**SUBJECT: Memo from Superintendent of Schools to Office of Educational Quality & Accountability**

**ACTION: File**

## **Gloucester Public Schools**

**Christopher Farmer**  
**Superintendent of Schools**

6 School House Road

Gloucester, MA 01930

Phone: (978) 281-9800 / Fax: (978) 281-9899

Email: cfarmer@gloucester.k12.ma.us

December 13, 2007

Dr. Joseph Rappa  
Executive Director  
Office of Educational Quality and Accountability  
One Ashburton Place, Room 1403  
Boston, MA 02108

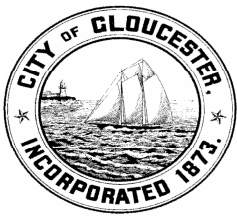
Dear Dr. Rappa:

**Re: *How Is Your School District Performing: A Look At Gloucester Public Schools***

Since the district received the draft executive summary of the Gloucester examination I have messaged you on several occasions since October 22, 2007 to protest the conclusions of the examination with regard to Standard I (Leadership, Governance and Communication), and Standard VI (Financial and Asset Management Effectiveness and Efficiency). As you know the district's concern rests with the report's conclusion that the inadequacy of the funding for the Gloucester Public Schools is in part the responsibility of the School Committee and the Superintendent of Schools. On more than one occasion you have been asked to indicate what action either the School Committee or I might take to ensure that the schools are adequately funded. Your office has not addressed this issue.

At its meeting yesterday evening the Gloucester School Committee noted that an adjustment has been made to the "areas for improvement" related to Standard I by the deletion of the section which stated "Although the school committee attempted to secure adequate financial resources for Gloucester's schools, the city failed to provide them. However, the School Committee and I were extremely disappointed to note that in relation to Financial and Asset Management the report had been modified only to the extent that under "areas for improvement" the statement "The Gloucester Public Schools budget was not adequate to maintain or improve school programs and facilities, and the district lost 60 positions since FY02" has been augmented with "Decreasing levels of state aid and additional monies provided by the city were consumed by increasing indirect costs such as health (sic) insurance premiums and energy costs."

The district welcomes the recognition that it is not adequately funded. However, the EQA makes it



**GLOUCESTER CITY COUNCIL 2008**

**COMMUNICATION**

**RECEIVED: 01/22/2008**

**NUMBER: COM2008-002**

**NUMBER OF PAGES:**

**SUBJECT: Memo from Attorney Faherty requesting a Sewer Line Acceptance**

**ACTION: REFER P&D**

Jacqueline Hardy, Chairman  
Planning & Development Standing Committee  
City Hall  
Gloucester, MA 01930

RE: Western Avenue Sewer Project ( WASP Corp.)

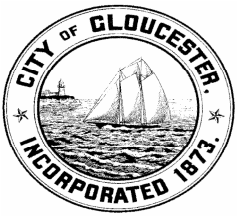
Dear Ms. Hardy:

I represent WASP Corp. (Western Avenue Sewer Project). The camera testing of the sewer line has been completed. My client wishes to proceed to have the City of Gloucester accept the sewer line.

Sincerely,

  
J. Michael Faherty

JMF/am



## **CITY OF GLOUCESTER 2008 CITY COUNCIL ORDER**

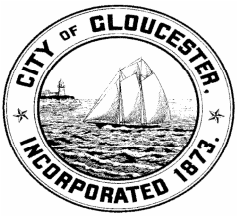
**ORDER:  
COUNCILLOR:**

**#CC2008-007  
Philip Devlin**

**DATE RECEIVED BY COUNCIL:  
REFERRED TO:  
FOR COUNCIL VOTE:**

**01/22/2008  
P&D**

**That the Planning and Development Committee informally review the applications, correspondence and permits issued to Carter Hill Associates by the City of Gloucester.**



**CITY OF GLOUCESTER 2008  
FOR COUNCIL VOTE #FCV2008-002**

|                    |                    |
|--------------------|--------------------|
| <b>ORDER:</b>      | <b>#CC2008-002</b> |
| <b>COUNCILLOR:</b> | <b>Bruce Tobey</b> |

|                                  |                   |
|----------------------------------|-------------------|
| <b>DATE RECEIVED BY COUNCIL:</b> | <b>01/08/2008</b> |
| <b>REFERRED TO:</b>              |                   |
| <b>FOR COUNCIL VOTE:</b>         | <b>01/22/2008</b> |

**That the council go on record as opposing proposed legislation pending at the State House which would amend the Open Meeting Law, General Laws Chapter 39, Section 23B.**

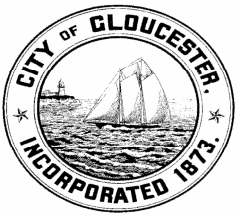
Under existing law, a violation of the Open Meeting Law could result in a \$1,000 fine against the Town. The proposed bills would also impose a \$500 fine against each individual municipal board or committee member who acts in violation of the Open Meeting Law.

Uncompensated volunteers such as members of the Board of Health, Zoning Board of Appeals, Planning Board, Finance Committee and Conservation Commission could be fined individually. Such a personal fine against municipal board and committee members is unprecedented in the Commonwealth. There is also a legitimate question as to whether the Town could provide them with legal representation if they were sued in their individual capacities seeking to assess fines against them, or whether they would need to pay their own attorneys to defend them against the fine.

The potential for such a fine would discourage many qualified individuals from volunteering for these uncompensated, time-consuming, but necessary positions.

Further that the City Clerk shall send a record of this vote noting this body's opposition to these changes to our State Representatives and all Representatives on any committee that this legislation appears before.

| COUNCILLOR | YES | NO |
|------------|-----|----|
| CIOLINO    |     |    |
| CURCURU    |     |    |
| DEVLIN     |     |    |
| FOOTE      |     |    |
| GEORGE     |     |    |
| GROW       |     |    |
| HARDY      |     |    |
| ROMEO      |     |    |
| TOBEY      |     |    |



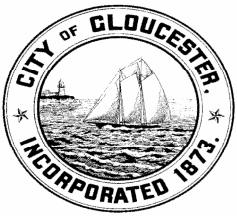
**CITY OF GLOUCESTER 2008  
FOR COUNCIL VOTE #FCV2008-003**

|                    |                    |
|--------------------|--------------------|
| <b>ORDER:</b>      | <b>#CC2008-003</b> |
| <b>COUNCILLOR:</b> | <b>Bruce Tobey</b> |

|                                  |                   |
|----------------------------------|-------------------|
| <b>DATE RECEIVED BY COUNCIL:</b> | <b>01/08/2008</b> |
| <b>REFERRED TO:</b>              |                   |
| <b>FOR COUNCIL VOTE:</b>         | <b>01/22/2008</b> |

**That the regular council meetings for the month of February 2008 be held on February 12th and 26th in light of the conflicts caused to the ordinary schedule of meetings due to the Presidential Primary (February 5th) and school vacation (February 19th).**

| COUNCILLOR | YES | NO |
|------------|-----|----|
| CIOLINO    |     |    |
| CURCURU    |     |    |
| DEVLIN     |     |    |
| FOOTE      |     |    |
| GEORGE     |     |    |
| GROW       |     |    |
| HARDY      |     |    |
| ROMEO      |     |    |
| TOBEY      |     |    |



**CITY OF GLOUCESTER 2008  
FOR COUNCIL VOTE #FCV2008-004**

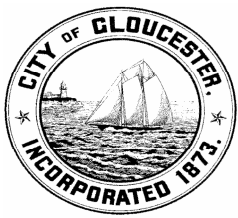
|                    |                    |
|--------------------|--------------------|
| <b>ORDER:</b>      | <b>#CC2008-006</b> |
| <b>COUNCILLOR:</b> | <b>Gus Foote</b>   |

|                                  |                   |
|----------------------------------|-------------------|
| <b>DATE RECEIVED BY COUNCIL:</b> | <b>01/08/2008</b> |
| <b>REFERRED TO:</b>              |                   |
| <b>FOR COUNCIL VOTE:</b>         | <b>01/22/2008</b> |

**That the City Council designates John Ronan as Poet Laureate for the City of Gloucester.**

**Further that the City Clerk arrange for a suitable time for this ceremony.**

| COUNCILLOR | YES | NO |
|------------|-----|----|
| CIOLINO    |     |    |
| CURCURU    |     |    |
| DEVLIN     |     |    |
| FOOTE      |     |    |
| GEORGE     |     |    |
| GROW       |     |    |
| HARDY      |     |    |
| ROMEO      |     |    |
| TOBEY      |     |    |



**CITY OF GLOUCESTER 2008  
FOR COUNCIL VOTE #FCV2008-005  
Warrant for Presidential Primary 02/05/2008**

COMMONWEALTH OF MASSACHUSETTS  
WILLIAM FRANCIS GALVIN  
SECRETARY OF THE COMMONWEALTH

Essex, SS.

CITY OF GLOUCESTER

To the Constable of the City of Gloucester:

**GREETING:** In the name of the Commonwealth, you are hereby required to notify and warn the inhabitants of said city who are qualified to vote in Primaries to vote at:

| WARD & PRECINCT               | LOCATION                 |
|-------------------------------|--------------------------|
| 1-1 East Gloucester School    | 8 Davis Street Extension |
| 1-2 Veterans' Memorial School | 11 Webster Street        |
| 2-1 Youth Center, OLGV Church | 140 Prospect Street      |
| 2-2 McPherson Park Building   | 31 Prospect Street       |
| 3-1 Veterans' Center          | 12 Emerson Avenue        |
| 3-2 First Baptist Church      | 38 Gloucester Avenue     |
| 4-1 Beeman Memorial School    | 138 Cherry Street        |
| 4-2 Plum Cove School          | 15 Hickory Street        |
| 5-1 Magnolia Library Center   | 1 Lexington Avenue       |
| 5-2 West Parish School        | 10 Concord Street        |

on **TUESDAY, THE FIFTH DAY OF FEBRUARY, 2008**, from 7:00 A.M. to 8:00 P.M. for the following purpose:

To cast their votes in the Presidential Primary for the candidates of political parties for the following offices:  
PRESIDENTIAL PREFERENCE.....FOR THIS COMMONWEALTH  
STATE COMMITTEE MAN.....FIRST ESSEX & MIDDLESEX SENATORIAL DISTRICT  
STATE COMMITTEE WOMAN.....FIRST ESSEX & MIDDLESEX SENATORIAL DISTRICT  
WARD COMMITTEES.....GLOUCESTER

Hereof fail not and make return of this warrant with your doings thereon at the time and place of said voting.

Given under our hands this **TWENTY-SECOND** day of **JANUARY, 2008**.

*Ben T. Hardy*  
*Stephen A. Hardy*  
*Stephen A. Hardy*  
*Stephen A. Hardy*  
*Stephen A. Hardy*  
*Stephen A. Hardy*  
*Stephen A. Hardy*  
*Stephen A. Hardy*  
*Stephen A. Hardy*  
*Stephen A. Hardy*

CITY COUNCIL FOR THE CITY OF GLOUCESTER

*Robert D. Hardy*

January 22, 2008

| COUNCILLOR | YES | NO |
|------------|-----|----|
| CIOLINO    |     |    |
| CURCURU    |     |    |
| DEVLIN     |     |    |
| FOOTE      |     |    |
| GEORGE     |     |    |
| GROW       |     |    |
| HARDY      |     |    |
| ROMEO      |     |    |
| TOBEY      |     |    |





## GLOUCESTER CITY COUNCIL 2008 PUBLIC HEARING

***\*THIS IS A COMBINED PUBLIC HEARING\****

**PUBLIC HEARING NUMBER: 2008-007**

**SUBJECT:**

**Rules and Regulations pertaining to the Acceptance of Private Sewers/  
Chapter 23, Utilities, Section 23-24(a) (1) Sewer Betterment  
Assessments**

**DATE OPENED:**

**10/30/2007, 12/11/2007**

**CONTINUED TO:**

**CONTINUED FROM:**

**10/30/2007, 11/13/2007, 11/27/2007, 12/11/2007, 01/08/2008**

**COMMITTEE MEETING**

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### Legal Notice

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#### NOTICE OF PUBLIC HEARING

The Gloucester City Council will hold a public hearing on **TUESDAY, October 30, 2007** at 7:00 p.m. in the Fred J. Kyrouz Auditorium, City Hall relative to the following amendments to the Gloucester Code of Ordinances:

- **AMEND the Rules and Regulations Pertaining to the Acceptance of Private Sewers and Gloucester Code of Ordinances, Chapter 23, entitled "Utilities" as written**

At the Public Hearing, all interested persons will have the opportunity to be heard.

**By Vote of the City Council  
Robert D. Whynott, City Clerk**

GT – 10/22/07

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### Legal Notice

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#### NOTICE OF PUBLIC HEARING

The Gloucester City Council will hold a public hearing on **TUESDAY, December 11, 2007** at 7:00 p.m. in the Fred J. Kyrouz Auditorium, City Hall relative to the following changes to the Gloucester Code of Ordinances:

- **Chapter 23, "Utilities", Section 23-24(a)(1), entitled "Sewer Betterment assessments" by DELETING existing language (full text in Clerks office) and ADDING the following language: Section 23-24(a)(1), entitled "Sewer Betterment assessments" The City Council shall only approve sewer betterments with a City contribution if all the following conditions have been met:**

- A. The City's debt service expenditures, as documented to the City Council by the City Treasurer, do not exceed 8% of its general fund revenue as indicated in the currently adopted budget.**
- B. The project is consistent with the City's Facilities Master Plan as adopted by the City Council.**
- C. The project provides a clear environmental benefit and resolves existing neighborhood-wide failed septic systems which have no other feasible resolution.**
- D. The project is required under a State or Federal Mandate through administrative or court action.**

**If A through D are met a City contribution is to be made, pursuant to MGL c. 83, §18 and §23, the City share shall not exceed 25% of the total project costs up to and not to exceed the value of \$6,000 per residential dwelling unit.**

At the Public Hearing, all interested persons will have the opportunity to be heard.

**By Vote of the City Council  
Robert D. Whynott, City Clerk**

GT – 12/3/07

**GLOUCESTER CITY COUNCIL  
SPECIAL CITY COUNCIL MEETING  
TUESDAY, MAY 9, 2006 – 7:00 P.M.  
KYROUZ AUDITORIUM**

**Attendance:** James Destino, Chairperson; John “Gus” Foote, Vice Chairperson; and Councilors Jason Grow, Jacqueline Hardy, Michael McLeod, Walter Peckham, Sefatia Romeo, Alphonse Swekla, and Bruce Tobey

**Also in Attendance:** Mayor John Bell, Steve Magoon, Admin Asst. to the Mayor  
**Sewer Task Force Committee:**  
Joseph Parisi, Thomas Moses, David Knowlton, Aaron Cillufo  
Jack Vondros, David Sargent, Abdullah Khambaty, Max Schenk  
Greg Cadematori, Nancy Ryder

**Flag Salute and Moment of Silence**

**CALL TO ORDER:** The meeting was called to order at 7:00 p.m.

**Sewer Task Force Report Forum**

**Opening Comments by Mayor Bell and Council President Destino.**

**Councilor Destino** stated that his forum is being held to speak of policy issues, not people and to face the objective of going forward with a sewer policy that works city-wide. He requested that people deal with the policy and not personal issues. The City Council is a decision-making board which is including the public in the process.

**Mayor Bell** reported that the Task Force has been working since October 2004 to address sewer policy issues. He introduced the members of the Task Force who were present. The Task Force came together as an internal work group, working with the public, to come up with the best of ideas. Looking at this as not the end of a process, but the beginning of public comment for the best solutions for Gloucester.

He stated that one cannot help but underscore affordability; however, the primary driver was public health which underscores the need for a good sewer policy and how we can create a better living environment. The committee reviewed a very broad subject. Mr. McKenna, the former Administrative Assistant to the Mayor, wrote a memo regarding compliance, suggesting a group convene to analyze aspects in areas of concern and formulate wastewater disposal issues. Also to be reviewed were funding issues and revisions of private sewer rules and regulations. A number of issues will be discussed tonight and at future public forums.

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**Mayor Bell** introduced Steve Magoon, Administrative Assistant, who will review the draft policy, stating that this is the beginning of a thorough process of public comment. He further urged written comment to the City Clerk’s Office, or through e-mail to the City Council or Mayor’s Office, which will also be used as part of the public comment.

**Draft Sewer Report Overview by Steve Magoon, Chair and Task Force Members**

**Mr. Magoon** spoke to information on the Task Force Report. He spoke of the charge letter, and how the Task Force met and came up with recommendations of how to go forward with implementation of sewer service and conditions of the Daylor Study. The report before the forum is an update on implementation efforts. He also noted that the Planning Board is considering a Zoning Amendment which has been forwarded to the City Council to be debated.

Further, draft sewer regulations have been formulated by the City Engineer's office and are ready to be forwarded to the City for consideration.

The Task Force, he stated, met for considerable time and delved into issues facing the City.

**Mr. Vondros**, Health Agent, spoke to the need for servicing the sewer and prioritizing areas of the city. He also recognized members his staff who were of assistance.

He stated that the WWMP was designed and adopted in June 1996 as a result of the North Gloucester Sewer Consent Decree which was to eliminate septic water pollution.

He shared the outcomes, noting that there are seven priority drainage areas which have pollution problems and failing septic systems. A data base is maintained to track maintenance and operations to ensure compliance with WWMP and Title V regulations. There are ongoing Septic system maintenance inspections, and the WWMP requires function checks every 3.5 years unless using pretreatment technology. He also noted that failing systems must have an upgrade within two years, or five years if complying with sewer.

He also spoke of pumping schedules, water conservation, and preventing public health risks such as backup in the ground or house. **Mr. Vondros** also spoke of septic "limbo" in that it is not fair for homeowners to pay twice, once for a new septic system and, then again, for sewerage.

Regarding the Daylor Study, the City Council approved an Ordinance in 2002 and an overlay district in 2003 which pinpointed the location of failing systems; the effect of wastewater treatment; and, community input on preferences. In West Gloucester, there were high failures, significant wetlands, and shallow soils due to ledge. The Health

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Department helped by developing criteria which included proximity to areas of environmental concern; i.e. shellfish beds, coastal beds, and private drinking water.

The proposed future priority public sewer projects include:

Walker Creek: Sewer Priority #1

Upper Little River Drainage Area

Extended Jones River Drainage Area

Other sewer service areas on a case-by-case basis

**Mr. Vondros** stated that the Health Department will remain active on future sewer policy and technical review on projects for public sewers.

**Mr. Parisi**, DPW Director, and **Mr. Knowlton**, City Engineer, spoke to private extensions of sewer systems and the STEP Systems. **Mr. Parisi** noted that with Grinder Pumps, the City maintains those installed on private property. There are currently 354 systems installed and another 62 in the Little River area. By City Ordinance, the City takes responsibility and maintains under a maintenance budget. Grinder Pumps installed privately are not maintained by the City. He would like regulations in place that would regulate the proper use of grinder

pumps, noting that they fail if not treated properly. Further, misuse is expensive. **Mr. Parisi** also stated that there should be some Ordinance amendment to ensure the needs of the pumps by keeping oil and grease out of the system.

He stated that the STEP system is similar in that it is a pump system. In the North Gloucester sewer area, 1225 tanks are maintained by the City under contract operations and regular maintenance. One-quarter of the tanks are maintained each year which including cleaning screens and pumping tanks. There have been discussions about the limitations of the STEP system, wherein it takes more maintenance than gravity sewers and there have been discussions on the concerns on the design capabilities of STEP to handle waste.

**Mr. Knowlton** said there are private sewer construction regulations currently before the City, and in 2002, the City put regulations in place to allow extensions of sewer to be constructed privately. Some have been legally disputed and some are less successful than they were intended to be. He further stated that there is concern about regulations and requirements and there needs to be more construction detail on how the sewer will be built with better oversight. Because these are privately constructed, they are privately funded. Private projects lean toward less costly efforts, which needs to be addressed. Also, with privately funded projects, the subject of funding often invites discord and issues among neighbors and neighborhoods.

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He spoke of the connection vs extension issues noting that if a property abuts a right-of-way that has sewer, the property is considered to have access to sewer and has a right to connect. This process includes hiring an engineer and discussion with the Engineering Department. Extension is where there is no sewer right-of-way, so there would have to be an extension to allow frontage to the access. An extension requires a DEP permit application process with public notification. Then, the extension permit is issued.

**Mr. Moses**, Chief Financial Officer, spoke of the financial implications of a sewer project and how this will be addressed by the City. He referred to what is commonly called a sewer subsidy and noted that in a new sewer project 75% is borne by the property owner, and 25% comes out of City's general taxes. The City taxpayers pay the 25%. The 75/25 split has not always been the case. It was developed when sewers went into North Gloucester and was a way to make sewers affordable as well as gain community acceptance. Thus, the 75/25 split evolved over time and was effective in accomplishing the goals of the WWMP. The coastal waters are cleaner than ten years ago according to the EPA and DEP. However, times have changed and the split is viewed as a cost which diverts funds from other city expenses. \$1.3 million dollars, each year, comes out of the tax rate to support prior sewer projects. This amount would educate every fourth grader in the City.

The effect of the split has absorbed financial resources in the City and blocked future sewer projects, putting more emphasis on private sewers, in that the City could not afford the 25% contribution. Initially, the contribution was to promote sewers in certain parts of the City.

In addition to the above financial impact, Wall Street looks at how Gloucester uses tax dollars. There is no reason the City cannot raise water and sewer rates, but it cannot raise taxes without Prop. 2.5, that, with rising health care and public safety costs has squeezed the General Fund. It was recommended the Task Force address the 75/25 split.

**Mr. Magoon** stated that the Task Force can look at a broad series of issues facing the City, and there are situation in several parts of the City where systems are failing and property owners need resolutions while appropriately protecting the environment. Controls must be put in place and needs should be balanced. Further, the City needs to find and provide solutions, helping homeowners to move forward and succeed.

The Task Force has stated there is a need for a clear policy direction for the city regarding sewers.

Overview primary recommendations:

1. Develop a city-wide wastewater plan.
2. Eliminate the City's share of sewer extension costs
3. All private existing sewer extension projects should be continued as public projects and managed by the City
4. Proposed future priority public sewer projects as prioritized in the Daylor Study.
5. Proposed moratorium on further privately constructed sewer projects. Enable the City to put forward rules and regulations to meet the standards of the city.
6. Proposed policy for management of grinder pumps
7. Proposed moratorium on STEP System extensions which would give the City the opportunity to carefully consider if they are appropriate. Define areas.

### **Questions and Comments from elected officials and members of the public.**

**Councilors Grow** questioned whether Councilors can file requests for follow up.

**Councilor Tobey** stated that the key first step is a facilities plan in place that can assess the capabilities of the sewer systems. **Mr. Knowlton** said that an RFP is in place and it is necessary to develop the scope of work for the RFP, which would take three weeks to complete; with a four week bid period to prepare the technical approach. This would bring the time to July 1<sup>st</sup>. It would be mid – July before bids are open and documents prepared to make a selection. Further, the entire facility plan would take a year to be prepared. **Mr. Knowlton** also stated that there is a need to work out a moratorium time-frame as other projects arrive, and the Task Force stays engaged in establishing priority areas.

**Councilor Foote** said in 31 years, there has never been a fair way for rate-payers or non rate payers. He wants to come out of this, or any meeting, with one answer for the rate payers – fair for all.

**Mayor Bell** said it is a slow process, but painless as it comes closer to solutions and, in fact, the public, administration, and Council are working toward that solution. The ultimate goal is fairness and doing everything that can be done to move the process forward, as a public process that will make the best solutions for the community.

**Councilor Romeo** requested an explanation and clarification on the terms “extension” and “connection”. She further questioned how people are supposed to work within the process. **Mr. Knowlton** stated the regulations have been in place since and in 2005, a decision was made not to accept applications for private constructed sewer extensions. Doors were not shut on people who had the project far enough along to complete; however, new projects were not accepted.

**Councilor Destino** questioned whether not accepting applications was a decision that was/was not a part of the 75/25 split, but whether the problem was with design and installation. He noted that regulations do not speak to construction details, manholes, repaving, etc.

He noted that the City specifications are not clear and there is a need to design specifications for private extensions. **Mr. Knowlton** also noted that the Department has the ability to come up with specifications and regulations including oversight of construction which, currently, there is no manpower to provide. He also noted that private sewers are a drain on his Department's time.

**Councilor Tobey** stated, regarding oversight and certification, that the Administration must make a decision as to what they want.

**Mr. Knowlton** said that his Department gets challenged on every aspect of construction and the regulations need to be changed.

**Councilor Grow** suggested a document that says "this is what we expect". Further a document that states where the City is going while facing a problem with future consent decrees. The City needs to think about being more proactive about getting areas sewerred.

**Councilor Destino** said that the Daylor Study focused on one section of the city and questions whether the Task Force has a growth management section.

**Mr. Knowlton** stated that the Task Force looked at the full build-out as to what is needed and how it will operate. Recommendations will be made on deficiencies. He further noted that there is an environmental impact component on the build-out.

**Councilor Grow** noted that people are unable to move; they are trapped in their homes and questioned how to move forward.

**Councilor Peckham** questioned the time table in effect for sewerred the Walker Creek area and whether there will be a 25% subsidy. **Mr. Knowlton** said that area is a top priority and will move forward. Time is needed to appropriate funding and prepare the design and permitting process. Further, by the time the money is appropriated, it would be one year before construction.

**Councilor McLeod** questioned City growth vs the Treatment Plant. **Mr. Knowlton** stated that the capacity is 7 million gallons and it is now at 4.5, which means there is available capacity.

**Councilor Destino** said that the City Council is learning about sewers and understands the frustrations of this complicated issue given the patchwork policy throughout the City.

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**Councilor Grow** questioned abandoning private projects and taking all projects on a public basis. **Mr. Knowlton** said, as an advanced issue of the Task Force, if the 25% contribution goes away and sewers are 100% funded, there is no way to do projects through a private process. Thus, all projects would be done when the City has the capacity to do as public projects.

#### **PUBLIC COMMENT:**

**Tim Joice**, 45 Sumner Street. Questioned how many members of the Task Force live in the affected areas. He also discussed projects and costs to homeowners. He stated that if the project is \$40,000 per home, the homeowners will pay the total cost and the whole city will benefit. He stated he pays taxes, including payments for sewerred other areas of the City; however, he is paying for his own sewerred without help from others. He also questioned what is to gain by spending money to sewer the area of Walker Creek.

**Dan Greenbaum**, 318 Concord Street, noted that the Task Force has spent a lot of time and they, and the Mayor, deserve credit on this important issue. Progress has been made in the plan; however, it is important to do something in West Gloucester, not just the clam flats, but Walker Creek. He agrees that the City is going to have to have tough rules for private contractors and that the City has the Daylor Report, but needs more. There are things that need more work including attention to sewer Ordinances. The service areas are good sewer services areas, but provisions need to be made to allow for extensions in the service areas. He also noted that the Betterment question will be difficult for the Council and there is no analysis for paying off the West Gloucester sewers. If homes are added in West Gloucester, how much will it cost during the next 10 or 15 years. The figures need to be right.

**Steve Bolder**, Brooks Road is trying to sell his house but is having endless costs, delays, complications, and escrow funds until the sewer issue is resolved. He stated he is prepared to pay full cost for the betterment on his property.

**Councilor Grow** stated the longer the delay, the more expensive the project will become. If looking at \$40,000 now, and wait 2 to 3 years, he questioned what will it cost to the homeowner.

**Councilor Destino** said the areas in the Daylor Report should be able to be preapproved to move the process and break the long jam in order to sewer the areas that are polluted.

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**Attorney Michael Faherty**, who represents a number of people affected by the private sewer moratorium, commented on private applications, noting that quality control issue is not true. If comparing private vs public systems, private systems perform well.

Further, in North Gloucester there are no problems with capacity, leaks and faulty construction and systems; however, in the public sewer in Kent Circle, the pipe had to be abandoned and a new line installed on Western Avenue to the Treatment Plant. He questioned when the last episode occurred with a privately constructed sewer. Further, it is not true that a year is needed to study and design. Manhole regulations are set by the State and pipes and connections are standard. Private sewer standards are in excess of that required in a public project. Time is not needed to resolve.

**Mr. Faherty** also spoke to discord in the neighborhood stating that the last person who connects pays the least amount, first person, pays the most. This is not fair and does create discord. Further, the Task Force needs to be a public process, and people who are constructing private sewers are finding themselves in situation which is less expensive, permanent, and there are no issues of subsidy. There are people in the community who can offer to help and the common problem needs to be addressed.

**Mr. Magoon** stated that the year is to develop a plan; however, the facilities plan does not need to be developed before other projects are undertaken. Can be on both tracks at once.

**Julie Ramsdell**, 7 Cedarwood Road, spoke to her failed system and others in the area. She said she is in “septic limbo”; had tried to sell her house, but the Real Estate Agent refused to list it; and, she has zero equity in her home without any chance for financing. All areas should be equal. She questions when there will be an answer and when will they have sewer. She has invited people to see the problems at her home, noting that Cedarwood and Fenley Roads have failed systems and drainage difficulties.

**Mr. Magoon** commented that she may not have an answer of “when” tonight; however, there is a recommendation to sewer the area. The question is how quickly can the City afford the project and financing issues.

**Councilor Grow** asked if there is an updated list of the number of people affected.

**Mr. Vondros** stated there is not; that this is a complex issue; and, suggested the Councilor call the Health Office. **David Sargent** stated he has updated records on failed systems, and **Councilor Grow** requested the updated list be provided.

**Stephen Golden** said the City is in a difficult financial situation. The City needs the 25% and individuals need money. He suggested looking at other alternatives to come up with a financial solution, noting that people with vacant land, which is worth a lot of money, are being subsidized by the rest of the population. He recommended finding a way to apportion fees of each of the vacant / buildable lots.

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**Diana Peck, Sumner Street**, stated that West Gloucester is being discovered by developers and City came along and tested. As a result, sewer not going to Sumner Street. Further, she spoke about Essex joining the system, bringing down the costs of the W. Gloucester area, which is not happening. It is not fair to W. Gloucester residents who are expected to pay full costs of sewerage. She also noted concerns about rapid development and said the City has to be fair, proactive, and work toward control.

**Rick McGilvary**, Woodman Street, said if the City has expanded the ability to tie into the system, the tax base should be expanded.

**Mr. Parsons** – said he is not in the affected area, but will be in the future and stated he has a problem with the City eliminating the 25%. If areas are more expensive, the homeowner should not have to pay the full costs. He said he will not be able to afford to live in the City. He spoke about a proposal for private sewers on his street and was informed that in five years, the City owns the pipe.

**Mr. Parsons asked that all entrances to City Hall be open during a public meeting.**

**Joe Cilino**, High Popples Road, said that private sewer extensions are a great solution and, if the City is going to grow, it will need to look at private sewers. The problem has been one of ownership and neighbors are feuding with who owns what. With regard to the 75/25, people have been paying the 25% and should continue to do so.

**Barbara Lambert**, Riggs Point Road, said there should be a moratorium for sewer extensions for the whole city until a clear plan for building has been developed. Sewers have made life easier, but residents have paid a high price. She spoke of Riggs Point development, parking issues with development, and how the sewer has changed the landscape. She also spoke of development projects which have been, or are, in the process of being permitted and built.

**Christine Rasmussen**, 82 Woodward Street, stated that West Gloucester is on steroids. She thought protection was in place when the Daylor Plan was adopted to make sure there would be good land use controls to allow for a quality of life for all residents. Also, the issue of A and R lots which are going to be created. She suggested looking to address the A and R lots, and what the City can do to make sure development manageable. She also said that the Daylor Plan was a public component with public participation and recommended sitting with neighborhoods to develop sewer plans. It would also be difficult to eliminate the 25% subsidy, she said.

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**Marcia Chimmataro**, Keystone Road, spoke to sewer extensions for private property owners in the City. She said she has applied; however, was told she was not allowed to apply. She also spoke about developing nine acres and wanted to pay to bring the sewer to homes, but can not do this. The A and R process is not a bad thing and sewer extensions should be allowed on a case-by-case basis. The Council should review the policy. She also said she paid for a sewer hookup on a house in Essex with no subsidy and referred to Ms. Lowe's Memo regarding privately constructed sewers. (Copy on file in City Clerk's Office)

**Mike Carrigan**, Norwood Heights, stated that the City has given sewer to Essex and Rockport, yet Gloucester's residents have to fight to get sewer. A future policy should include all residents of Gloucester.

**Joseph Grace**, 75 Holly Street, spoke of two kinds of sewers, gravity and STEP and stated that pump stations are run by electricity and if the electric fails, the system stops. No one should be allowed to connect to STEP unless they have Title V.

**Attorney Paul Shea**, 7 Revere Street, who represents several people involved in private sewer connections, referenced the 2004 memo from Mayor regarding WW plan, and adopting a recommendation predominately dealing with West Gloucester issues and funding methods. He stated the current policies of non-solutions regarding the City's septic problems and mistreatment of property owners have led to prior governmental court orders and citizen lawsuits. The pattern will escalate until such time that the City solves the problems in an equitable way with its citizens. The City sewers belong to the citizens of Gloucester, and the City must solve the problems in an equitable manner. Further, **Mr. Shea** stated that there is no record of a moratorium on private connections/extensions, and that Department Heads cannot create such a moratorium.

**Mr. Shea's** comments were presented in writing and are made a part of the record.

**Attorney Michele Harrison**, speaking as a citizen as well as a representative of clients before permit granting boards, stated that the Task Force is over-reactive and over-reaching. The charge was to assist those areas without public sewers which due to high septic system failures continue to face challenges regarding wastewater options. The second charge was to develop long term wastewater options and strategies for neighborhoods under pressure to comply with Title V. The response of the Task Force was not to assist neighborhoods without public sewer nor to develop long term WW options, but to prohibit the permitting of private construction of sewers by homeowners in the future.

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May 9, 2006

**Ms. Harrison** related the story of a homeowner who was denied the application process for a private sewer. She further reviewed MGL 83, Chapter 10 which promulgates rules and regulations, stating that the City Council is the only source of delegating power for sewer regulation, and noted that the City Council did not delegate this authority to the Engineering Department. The City Council did not vote on whether or not to prohibit extensions. She recommended the Council to take the authority and have the prohibition rescinded. She also questioned the term "foreseeable future" for the moratorium, stating that property owners are stuck, not just developers, but the individual homeowner.

**Ms. Harrison** also stated that private homeowners must post a bond for private sewer work for 25% of the estimated cost. The 25% is sufficient to cover any problems that may arise. She requested the City Council to:

1. Rescind the moratorium on accepting applications for private sewer connections
2. Reject the recommendation by the Task Force that prohibits application for private sewer systems for foreseeable future.

**Wrap up and Next Steps – Mayor Bell and City Councilors.**

**Councilor Foote** suggested the City install the sewer with the homeowner paying the City. Further, help those in the Walker Creek area.

**Councilor McLeod** recommended taking a hard look at the Betterment issue and development and impact fees. Further, he stated the Council will do what is needed.

**Councilor Tobey** requested that the City continue the moratorium and come back to the Council within forty five (45) days with substantive positions and data on the following:

(1) Commitment in writing for an RFP for a sewer system facilities plan including what is on hold and what is not; (2) that the Council and Administration will not get into a battle on the moratorium, and that the Administration prepare proposed amendments to the moratorium within forty-five (45) days; (3) a financial analysis of the debt schedules to play out in the next ten years at the 25% split; (4) an Audit of the Stabilization Fund within forty five (45) days; and (5) an analysis of the impact of funding sources – fees/betterment/compensatory. Further, a report from the Administration on the best way to handle residents paying their fair share and developers adding to the revenue.

**Councilor Swekla** stated that forty-five (45) days is a short period of time given the current and on-going budget process. He requested the time frame, above, be extended.

**Councilor Destino** recommended that the time frame be sixty (60) days, which would also include a public comment period.

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**Councilor Grow** stated that this is a thorny issue, dealing with the competing and quality of life issues. He further stated that not everyone will be happy and there are difficult challenges. If the City is going to wrestle with the issue of a moratorium, an advisory board should be established which can look into and examine the applications on a case-by-case basis. Also, the City cannot wait to come up with absolute limits on growth and development. The City needs to address the issues on areas that will need to be sewered in the future.

**Councilor Destino** recommended that an Advisory Board made up of a City Councilor, member of the Board of Health, Engineering Department, Department of Public Works, and a member of the public be formed to deal with the short-term issues on the moratorium.

**Mayor Bell** asked that he be given the privilege of making up the composition of the Committee.

**Councilor Foote** requested that when discussing the CSO and rate payers, do it fairly and paid by all.

**Councilor Romeo** stated that the Task Force was set up so there would not be continuous problems and, if the City is going to do something, do it right and with a time limit. The most concern, she said, is the living conditions of people, which should be a priority. Also, people should have input and give the Council the opportunity to learn more. Rules need to be put down and people need to work together. This is a good beginning with a good dialogue.

**Mayor Bell** thanked all for being in attendance this evening. He stated there will be a focus on the private extension/connection policy; however, the major concerns are environmental and public health issues. Further, the City needs to alleviate health hazards in the Walker Creek, Fenley and Cedarwood Road areas and a plan will be put into place. Focus will not be lost regarding these areas. He also said that additional figures will have to be generated from the Treasurer's Office, and recommendations will not be made until the numbers are in writing.

Further, other alternatives and suggestions will be reviewed, and design specifications for the private needs are to be articulated.

**Mayor Bell** also apologized to Councilor Peckham and the residents of the impacted areas for this lengthy process and offered the time of City staff to attend Ward Meetings.

**ADJOURNMENT:** The meeting adjourned at 9:45 p.m.

**Submitted by: Anne Marchand, Substitute Recorder**

**CITY COUNCIL WORKSHOP  
SEWER TASK FORCE REPORT  
Tuesday, August 15, 2006 – 7:00 p.m.  
Kryouz Auditorium - City Hall**

**Attendance:** Council President, Jim Destino, Council Vice President, Gus Foote, Councilors Jason Grow, Jackie Hardy, Mike McLeod, Walter Peckham, Al Swekla, Bruce Tobey  
**Also:** Mayor John Bell, Steve Magoon, Linda Lowe, Joe Parisi, Tom Moses, Aaron Cilluffo, Jack Vondras, David Sargent, Gregg Cademartori, Richard Gaines, Gus Demetri, Mark Hubbard, Mike Carrigan, Mike Faherty, Stevan Golden,  
**Absent:** Councilor Sefatia A. Romeo

**The meeting commenced at 7:00 p.m.**

**Gus Demetri, 89 Gloucester Avenue** has a failed system and wants to hook up his home to city sewer whether privately or by the city. His house is surrounded by sewer.

**Joe Parisi, DPW Director** stated that is a Gloucester Avenue area that does not have sewer in front of it. There is a small section that is a sewer in fill area as we see it and there is sewer all around Mr. Demetri's home.

**Councilor Destino** stated that would fall into one of the categories as a common sense hookup and one that a moratorium is really doing an injustice to.

**Councilor Grow** stated didn't we discuss the formation of an advisory group that was going to deal with these less complex, common sense issues.

**Councilor Destino** stated he hoped they would move forward on the initiative tonight.

**Councilor Hardy** asked if there are time frames for something like this. Mr. Demetri has tenants that are suffering because of the failed system.

**Councilor Destino** stated he is sure that the Board of Health has given Mr. Demetri a time frame. These are the types of sewer limbo issues we are trying to move on.

**Councilor Tobey** stated he isn't too hot on the notion of an ad hoc committee when there should be some concrete, reliable standards that people can look to and that will withstand legal scrutiny. He stated at the bare minimum he would like to know that Joe Parisi or his staff is committed to meet with Mr. Demetri soon so he doesn't get caught in any snares.

**Mr. Parisi** stated the Engineering Department will work with Mr. Demetri to review and see that the project doesn't have any impact.

**Councilor Destino** would like a city wide policy. He agrees that Mr. Demetri has a hardship and that needs to be resolved, but we also need to resolve the city wide problem.

**Mr. Parisi** stated they should be able to deal with that issue and very soon should be able to deal with the larger projects as well.

**Steve Magoon, Chief Administrative Officer** stated at the last discussion with the Council we had talked about having a committee to look at opportunities for extensions that had limited impact, where there were existing homes that had failed systems and be able to act on those quickly and allow those to move forward. We have dealt with a couple of situation, but feels we need to have that committee in place in order to do that in a more fair and equitable manner. He feels we can establish that tonight as an interim committee to have that in place until we have that broader private sewer extension policy adopted and in place.

**Councilor Swekla** asked does the Administration have a count of how many requests have been provided to the Administration about the number of people who want to hook up.

**Mr. Magoon** stated he doesn't have a specific number and feels that the nature of the requests vary greatly. Mr. Demetri has a situation where he has an individual home with a failed system, where he is surrounded by sewer facilities, just not in

front of his property. He thinks that situation is a very clear situation verses some of the other development potential situations that have more impact.

**Councilor Destino** stated as soon as the policy is settled there will be many more applications coming forward.

**Councilor McLeod** referred to a resident on Cherry Street. What the public perceives that are surrounded by sewer is they are willing to pay for it, why can't we hook in if we have a failed system. He asked Jack Vondras if you go into a person house with a failed system and determine that no one should be living there, wouldn't you want to push this process along.

**Jack Vondras, Board of Health Director** stated we meet with each resident to make sure they don't have public health issues. We work with each one on pumping so it is not a risk to public health. We have a number of residents in what we call a holding pattern.

**Councilor McLeod** stated if that is the case and if people have sewer in front of their house or close by do we call it sewer extension for one home.

**Mr. Magoon** stated if the sewer is across the frontage of your property and doesn't require an extension you connect into it. That is a much different process then extending that sewer in the public street which could go past other undeveloped properties and could have other impacts. We need to be careful in terms of how we can sewer those. What we did as an interim step was to put a hold on those private extensions of sewer in the street. He thinks we should put the committee in place and if it is a short extension with very limited impact to sewer an existing home, we ought to have a process in place for others to move forward.

**Councilor Tobey** stated there is already a process in place. Why do you need a committee, you have standards that dictate on how connections are done. It is suppose to be administrated - do the job and then we don't have a problem. You have no legal standing and the first person you turn down is going to sue the city and win because it is all ad hoc with no reasonable basis of fact.

**Mr. Magoon** stated if you are extending it, then it is not a connection and that is the critical difference, if we are talking about sewer extensions and not connections, can we remove that limitation in terms of applications for extensions, absolutely. He thinks the broader implications for that for larger properties and development potential are significant, so rather than taking that much bolder step, taking an interim step would be having an opportunity to consider those much more limited impact connections for these kind of individual situations.

**Councilor Tobey** stated the conversation has been along the lines of setting up some type of ad hoc committee. There has been no talk of an ordinance or a rule or regulation and they would review all these extension applications, as opposed to connections and they will issue on case by case basis a ruling. He asked what Linda Lowe's take on that is.

**Linda Lowe, General Counsel** stated a connection and extension are legally very different. There is no question that when you have sewer line that is in the street and the person's property abuts that street that not only should they sewer, but they can and there is no question and no point in talking about those situations, because no one is ever told no in those situations. When you don't abut the line in the street then you get into a situation that is most likely an extension which is a legal term. She doesn't think the committee is a good idea. You don't decide who connects to the sewer with an ad hoc committee formed with people who separately don't necessarily have any authority to determine anything. She feels you need fair systems in place for people.

**Councilor Destino** stated if that is the case and from what he is heard from this report is we need a facilities plan, a Daylor study for the entire city and that will take time. What mechanism is going to be in place for these common sense type projects to go forward. Explain to this Council what the obstacles are that it is so hard to get done. Why can't we allow these extensions or connections, whatever you call them, to happen before we have an overall facilities plan.

**Ms. Lowe** stated it does matter what you call them, because no body is prohibiting connections. Even before we developed the rules there never have been specific laws at the municipal level that govern when people may or may not build a sewer extension.

**Councilor Destino** stated we need tax revenue and we need to grow. It doesn't make sense to draw a line in the sand and asked why we can't get over that hump, because you are calling it an extension, not a connection. He doesn't understand why we don't have a policy.

**Ms. Lowe** stated that what the rules were promulgated to do several years ago. The recently revised rules are ready for people to discuss, to debate and go ahead with. So as soon as those are put in place she feels there is no need to have interim moratorium. There is always discretion in municipal officials to say no to an extension. There is a process and standards and once you get the approved revised rules in place then people would start to go through that process.

**Councilor Destino** this is not a City Council action item; it is an administration action item. What do you want from the City Council.

**Ms. Lowe** also understood that when those rules and regulations were revised and presented there could be an informal discussion so there would be some public exposure and debate so they could be revised and approved and then put in place. They were given to City Council for the purpose of information. She also has some suggestions about ways there might be an appropriate role for the City Council in the process as well.

**Councilor Foote** asked how long it is going to take for the city to let Mr. Demetri hook in. He and people like him should get answers.

**Mr. Magoon** stated if we are going to take that through a process of that committee, he feels it would go rather quick. If that is not the direction you want to go, he would defer to Legal Counsel in terms of process for considering that situation and how we ought to proceed with it.

**Councilor McLeod** stated we are sending mixed messages. We are telling people in Ward IV because they have a STEP system and a flow problem that we can't allow sewer projects to go forward, they are under review. We have a gravity system with Mr. Demetri and the taxpayers are going to spend millions of dollars to make sure the treatment plant can take more and the more people that get onto the system is going to be least expensive for them. It is the people who are on sewers that are going to pay for this, not the people on septic systems. Why can't we just do this. They want to take on the cost because they want to correct the problems in their neighborhoods.

**Mr. Magoon** stated there are two reasons why you don't just approve that. One is because of some of the problems we have had with private extensions and this set of regulations and design standards are being put forward to address some of those problems we have had on how sewers are constructed. The second reason is because while we are talking about Mr. Demetri who has one house surrounded by public sewer; the policy you put forward for how someone goes about privately constructing an extension of the public sewer system applies to everyone equally. It is not just an extension to serve an existing home with a failing septic that applies to; it applies any property owner that wants to do that. A lot of the problems we have had are not with an individual home owner who is extending the sewer to serve their failing septic system. It is someone who is extending the sewer to serve a development project or a much broader area, or runs by a lot of undeveloped property that then is available for development. Not that we want to prevent that property from moving forward and having development potential but we need to be careful how to do that. We need to make sure those facilities are constructed where and how the city sees fit and need to put those regulations forward.

**Councilor Destino** stated we don't understand why you don't have that power to do that. You certainly have a standard that they all should be built to. Why can't those common sense things go forward. He understands some of the other problems. He is not sure the City Solicitor is asking the City Council to have some role in adopting these revised sewer regulations. He just doesn't understand why you don't have the ability with what is in place today to still move forward on certain projects.

**Councilor Grow** doesn't care one way or the other whether the committee is formed. The reason this is before us is to try to give some relief to these people in isolated situations. How many of these isolated situations are there, like Mr. Demetri. He knows of a situation on 38 Marble Street that were originally told they had a connection and now they are being told that in order to connect they have to have an extension but they front onto a street that should have a connection waiting for them, and they don't. Their driveway runs right off the end of Marble Street and they were given a letter that said they had a connection for them.

**Aaron Cilluffo, Assistant City Engineer** stated they don't front, the sewer ends.

**Councilor Grow** asked if we have oversight, inspection, approval of plans and are monitoring the situation then why are we having problems with substandard contract or design work.

**Mr. Magoon** stated part of the problem is design; without a design standard in place it doesn't give a staff person much to lean on. We get in protracted arguments regarding design.

**Councilor Grow** stated we have design standards for public projects and why would they be any different in the private sector.

**Mr. Magoon** stated that is what we want to put in place, are design standard applied to privately constructed projects. The design standards will be part of the rules and regulations.

**Councilor Tobey** asked how long and extensive are the design requirements and the subdivision control regulations for sewer.

**Mr. Magoon** stated the design standards for sewer and the subdivision regulations are pretty broad and general, not very detailed.

**Councilor Tobey** asked how long they are.

**Mark Hubbard** stated they are three paragraphs.

**Councilor Tobey** stated in his memory we have not been plagued with collapsed sewer systems in the last 10 years.

**Mr. Cilluffo** stated Harrison Heights.

**Councilor Tobey** asked what the cost of repair was.

**Ms. Lowe** replied the cost was substantial.

**Councilor Tobey** stated he like Councilor Grow put together some questions and hope at some point tonight they will be answered. There are some fundamental dichotomies in the positions of this Administration putting forward, and you can't have them both ways. He asked the Mayor a specific question. The Mayor has been advocating for the Sam Parks project in back of Fuller School. It is going to require sewer and is it going to have to wait and if not, why not.

**Mayor Bell** stated we don't have a permit in front of us at the present time. We are supportive of the concept of the project. He would hope that his project would be ready to go. The reason we formed the committee we because he thought it was a recommendation from the City Council and if the Council agrees that it is not a useful tool to move us forward, he will take it off the table right now. In terms of the regulations, all we are trying to do is make development fair and square as being moved forward. To make it easier for the public and developers to understand what can and can't be done. The reason we

are coming together with the City Council is to do the kind of inquiry to answer those questions and try to build a stronger policy. We want to get this over with and get development in those areas where there is a grey area right now, get those areas squared away so everyone understands their footing as we move forward. We are very hopeful that the Sam Park proposal and the NOAA proposal will move forward.

**Councilor Tobey** stated there is no sewer line going up the Sam Park likely project and no distinction in any of these policies. He asked if he filed tomorrow will he allowed to move forward.

**Gregg Cademartori, Planning Director** replied yes, because it is a subdivision.

**Councilor Tobey** stated so a huge amount of flow can come in through the subdivision regulation. What if big piece of land on Essex Avenue is not being allowed to go forward as we stand right now under the extension approach of a private sewer. Are we then saying go ahead and take advantage of your lands configuration, where you only wanted to do a couple of houses and instead do a subdivision, because that is the only way you are going to get the sewer in and is that good planning. Additionally, he is worried about the time lines. The regulations as drafted reference the standards, paragraph 4C technical specs. The city's waste water collection system facility plan should be the planning document used to size the extension. The RFP, page 18 of Section 9013, which says the proposers will tell what the schedule is. This could take forever and asked where we are going.

**Mr. Magoon** stated obviously this is a significant planning document and will take some time. If what the Council is looking for is a more specific time frame in terms of the development of the master plan that can certainly be done, but it will be a significant effort. He feels it is as important to put some things in place to allow projects to go forward while we are waiting for that facilities master plan to be developed.

**Councilor Tobey** asked how Mr. Parisi, if he can't make any decisions, go in front of the Capital Improvement Advisory Board (CIAB) and advocate for municipal sewer extensions.

**Mr. Magoon** the projects that Mr. Parisi put before the CIAB were all within what was already adopted through the Daylor Study. Those are already projects that have come before the city in terms of sewer projects and as a policy these are places we want sewer to be or in one case some money set aside for some infrastructure projects, like Gloucester Avenue where perhaps there is sewer on either side, and an opportunity to provide some connections. The only projects that were put forward to the CIAB were those that had come before the city and already agreed upon as a desirable direction to go.

**Mike Carrigan, 81 Norwood Heights** stated the problems that happen in subdivisions, they happen just as much in the same public projects that they do themselves. There were no problems until that ad was taken out in the paper. That is what caused all the problems. There were some issues about payments, but the city has those same issues out in West Gloucester, they are arguing over the betterments. Those are inherent problems. No matter what we do we are still going to have problems going forward. If these pass, then you mind as well keep the ad in the paper. It has always been about development and it has been proven tonight by Mr. Magoon constantly saying impact, impact, and impact. We don't control development with the sewer line. If we need to control development we should do it through zoning. We in North Gloucester have paid for one-quarter of all the sewer and now you are telling people in North Gloucester that they can't have sewer. You need to lift the moratorium; it has been on for well over a year now. If it gets challenged it is going to get overturned. If you do the ad hoc, he agrees with Ms. Lowe, it is just going to cause more legal battles. Just lift the moratorium. You can still do this work and we can move forwards as a city.

**Councilor Grow** asked if we have the discretion to approve or deny these projects based on the merits of the individual project why do we have the blanket moratorium.

**Mr. Magoon** in his participation on sewer task force a lot of the discussions centered around problems we were having with privately constructed sewer extensions projects. The sewer task force came forward with a recommendation to put a hold on that and to develop a set of regulations, so we won't have these issues, or construct all the sewers publicly. That is what came forward. If the rule of the city collectively is that isn't the direction we want to go, and we want to allow private extensions of sewer then we can do that but we need to make sure we have the appropriate controls in place.

**Councilor Destino** stated so what you are saying is if the new rules are adopted then the moratorium is basically lifted because we have control of the standards by which these things are built. He asked if that is a correct statement and everyone is in agreement.

**Mr. Magoon** agreed.

**Councilor Destino** knows the Council doesn't have the authority to pass these regulations but they are concerned about them. He stated there seems to be quite a few more restrictions in these new regulations. He asked if it is a reasonable request to ask a one or two house connection to have someone to be the overseer of a project that small and to pick up that expense.

**Mr. Cilluffo** doesn't think it is a reasonable request to have a full time inspector for a one or two house connection.

**Councilor Destino** stated in here it says 50' is the threshold by which you will be required to have a full time overseer.

**Mr. Parisi** stated that is for connections to multiple homes. Single homes wouldn't cause as much concern and wouldn't be required to have a full time inspector, but multiple homes is that two homes, and does 50' trigger a full time inspector. In these drafted regulations he supposes it would. We have drafted these regulations and offered them for discussion and resolution to promulgate them as quick as possible so we can go beyond where we are today, which is the moratorium. In the meantime can we deal with single family homes he feels we can.

**Ms. Lowe** stated she thinks the question you are asking goes to what she thought we are trying to do and that is to provide the draft rules and regulations and to listen to the audience and suggestions from the City Council as to what they feel is problematic. You are making a very good point regarding single family homes and recommended making a change to the rules that makes it clear that single family homes are treated differently and are not required to have a full time inspector.

**Councilor Destino** would like the changes between what we have had before and what is being proposed

**Councilor McLeod** stated everybody keeps hearing the Administration has declared a moratorium and asked who has the right in the city to declare a moratorium, the City Council or the Administration.

**Ms. Lowe** stated it was done by means of the rules which are administrative and come out of the DPW Director based on the Code of Ordinances. How you get rid of the moratorium is to revise the rules. The primary purpose was that the rules were faulty and they didn't work well but once the rules are revised and approved the moratorium is taken away.

**Councilor McLeod** stated for clarification that Mr. Parisi a non-elected official has the sole power to declare a moratorium.

**Ms. Lowe** replied yes, on private sewer extensions because it falls within the realm of sewer rules. She has argued consistently that it is administrative power for the administration to enact the rules. That is what the state law says. There is genuine concern about people being informed on the rules and she thinks what might work is sort of meeting half way and in the sewer ordinance you recognize there are sewer rules that exist and find that whenever there are new rules enacted there should be a public hearing. Which doesn't mean the Council is enacting the rules, but means you are holding a public forum so everyone gets to have input before the rules are enacted to improve the process and the rules.

**Councilor McLeod** asked if the City Council introduced an order to stop the moratorium would that be legal.

**Ms. Lowe** doesn't believe that is the City Council's authority because it is referencing rules and she doesn't believe these rules fall in line with those under the charter.

**Councilor Destino** stated the City Council could enact something that says there would be a public hearing before these rules and regulations are changed, so why can't we say we have the final say on these. The City Council is not trying to get control of the DPW regulations but we are all hear because there is a problem and we are trying to solve it.

**Ms. Lowe** stated the public hearing process would allow input from both the City Council and the public and hopefully we would get better regulations as a result of that process.

**Councilor Destino** stated the reason the moratorium is in place is due to perceived problems with private sewer extensions, where does the public hearing process come into this.

**Ms. Lowe** feels the public hearing process will bring people together more on this.

When you have rules the best way to have better fairness is to have more input.

**Councilor Tobey** stated next Tuesday this City Council will hold a public hearing on proposed regulations on utility trench openings and the way it is drafted includes that the rules and regulations are to be under the DPW Director and he asked is that a model for a resolution on this matter. The Charter provides a provision for veto.

**Ms. Lowe** stated the Council is still not making the rules. Code of Ordinances Chapter 23, Utilities makes reference to the DPW Director as the one who has that type of authority but you could change that to a sewer commission.

**Mike Faherty** stated we heard Mr. Magoon and other people say there have been problems with the private sewer extensions, but he only heard one articulation about a problem on Harrison Heights. He thinks it would be appropriate during this ensuing discussion that Mr. Parisi or someone else describe how these proposed regulations are going to address the problems they have encountered because he doesn't believe there are problems with the construction of the private sewer, but also feels it is important, considering these as rules and regulation of how it addresses the problems they say they have.

**Mr. Parisi** believes we can move fairly quickly to review the regulations and get to the point where we all understand them and agree on what is best for the city. As Councilor Tobey suggests, if we follow the model for the road opening regulations, there are ordinances that are specific to the road opening and with that rules and regulations should fall in line with the ordinances. He thinks a review is certainly appropriate to insure they are consistent with any ordinance that are proposed or changed. We could have some ordinances put directly into references Chapter 23 that make reference to rules and regulations that are expected to be followed. He thinks we are all in agreement that we need more discussion and open up the discussion to come up with the best results. The rules and regulations as presented are not laid out to follow where the changes are and where things are different. Mr. Knowlton could provide what the true problems are they have experienced. The technical issues were mentioned and he feels they could reference those specifications to meet the standards. There are always deviations and exceptions based on the situation that we can deal with at the time. There are also existing regulations that uphold payment issues and how the applicant seeks reimbursement. He feels that was cumbersome in the regulation and doesn't even get addressed in these regulations. These regulations were revised to address some things that have come up in the past and try to develop clarity on.

**Mr. Magoon** stated from his perspective an amendment to the regulation that addresses a problem he perceives and one the regulations do not address that need to be addressed. The first one is the process for dedicating those facilities. It is private extension of a public facility and it is intended that once that is constructed and operational that it becomes part of the public system. What our regulations today say is that should happen 5 years after that project becomes operational completing. He feels that is problematic for a couple of reasons. One is that 5 years after that project is done particularly if it is a development project that developer is on to other projects, at that point it becomes problematic for that dedication to take

place. On the other hand what this new regulation proposes is a system of bonding – bonding that guarantees the work the contractors do not. You construct it and we inspect it and if find it acceptable we accept it as part of the public system but we keep that bonding in place to financially make a responsibility of that person constructing it to fix the problem or we have the financial resources to fix it ourselves. He feels that will work much more effectively if these sewers are accepted once constructed. We need to come to some resolution on the process and system for if you privately construction sewer system and pay for it and then it is further extended. How does that financing work and do people that paid for the first extension get reimbursed for the extension. We need public discussion on that issue to come up with a resolution on that. **Councilor Destino** would like to know the process for the bonding and how much it would cost and for how long. The other issue is when people tie into the city sewer and hook up and the flow starts. It seems reasonable to him that would be the time the city takes it over and there should be a fee to tie into the system even though folks built the sewer as soon as it starts flowing it is the city sewer. Do these regulations fix both problems? Do they address the fee schedule on how people are going to be charged to hook into the city sewer.

**Councilor Grow** asked what is the basis for that 40% and isn't that somewhat arbitrary. Isn't it better to have a standard based on some division of the entire impact on the system

**Councilor Tobey** asked what the best way to do a privilege fee assessment is.

**Ms. Lowe** stated you are now not talking about the rules and regulations. You are talking about a city ordinance that was passed by the City Council years ago. One of the things in this revision that has caused a great deal of discussion is what you do about series of extensions and that is what the rules need to address. We made an effort in the recent revisions but those are the types of things that need to be discussed.

**Mr. Magoon** stated the current rules we have been operating under say that the city isn't accepting sewers for 5 years and that poses some serious problems.

**Councilor Grow** stated the problem is the recovery of the cost of construction and if the city takes the position to accept the sewer from the moment we turn on the spicket how long have the people who have paid to have this construction had to recoup their costs from the abutters who haven't yet joined in and is it fair that then the city would take over the acceptance of those fees for the city's benefit.

**Councilor Tobey** stated this is a business venture and the person who structured the business deal has to make the best deal they can.

**Councilor Destino** stated Councilor Grow's point is well taken.

**Mr. Magoon** stated there are two issues here; on the one hand are they paying the same amount as their neighbors but the second part of that is who is collecting that revenue.

**Councilor Destino** stated with the sewer work needed in this city, this is it.

**Mr. Parisi** stated these regulations do address the extension and basically says the city does allow extensions and there will be no fees paid by the contiguous sewer. The existing regulations do allow for the city to take payment from those who don't join the project initially.

**Councilor Grow** agrees that once flow begins it is the city line but the concern is if the sewer system is designed for a specific number of homes and then there are other things that go along with that and that is down and people have the obligation for 5 years to repair and then you add another 100 units on the back, the system might not have been designed for that.

**Ms. Lowe** stated that is the reason for the rules. You wouldn't permit it that is the reason for these rules - "what else could be coming."

**Councilor McLeod** stated if the parties that put in the sewer want the city to take this over it is 5 years, but once the city takes it over, it is not an extension, it is the city sewer and he hopes that we are building these to the standard that they will take another sewer extension. He feels it should be up to 5 years, but if they want to come in earlier and it looks good we take it. This is a good opportunity to work with the public and may be cheaper for the residents.

**Mr. Parisi** stated the old regulations won't accept a sewer after 5 years. We are saying as soon as the flow starts the city takes ownership of the sewer.

**Aaron Cilluffo, Assistant Engineer** stated it can be less than 3 years; if another extension comes in the warranty period can be shortened so it is more flexible. There have been situations where people have asked the city to accept it earlier than the 5 years.

**Councilor Destino** stated part of the reason to have it out 3 or 5 years is because you want to make sure it is operating correctly. Accepting sewer the day the flow goes on but you have a bond in place just in case something fails; is that what you are proposing. He doesn't know what kind of hardship that is going to cause.

**Mr. Cilluffo** stated the previous regulation had a bond clause but the performance bond is new; the warranty bond is consistent.

**Councilor Grow** the performance bond is only for construction.

**Councilor Tobey** stated 4 d says that the 25% maintenance bond says as follows, "the bond shall be terminated when the city assumes operation and maintenance responsibility of the extension. There are two separate events the city triggers; one is accepting ownership and the other is accepting responsibility for maintenance and operation. There is nothing that says it



must wait three years. Why would we want to have two separate events; why isn't there one comprehensive resolution of ownership and suitability that is up to spec.

**Mr. Parisi** stated the private sewer construction is only private in its extension. The sewer itself is not private. In essence the city owns that when the construction is done. The city owns the pipe as soon as it is in the ground. The financial responsibilities are with the applicant. It is a complicated situation and there is risk in how they collect their monies but it is their responsibility on how to make it work for them but we certainly want to have bonds in place.

**Councilor Destino** doesn't understand why you just can't say as soon as they tie in it is ours and anyone else who ties in has to pay the city.

**Mr. Parisi** read the section in the sewer regulations on ownership of the private sewer extension.

**Councilor Tobey** asked why we make the ownership decision be simultaneous with the certification that we are willing to own and maintain it.

**Mr. Parisi** stated there should be no reason for us not to accept that sewer, what we are concerned about is it function properly.

**Councilor Grow** stated he feels the warranty idea makes a lot of sense.

**Councilor Destino** stated the problem is people coming into the extension after the fact.

**Mr. Faherty** stated your statement that when you accept flow you think you should own it and that anyone that ties in to it in the future pays the city. You should be trying to design a system that facilitates the creation of these sewers because you don't have the money to pay for them and they can be done less expensively than the city and have the assurance that people are spending their own money. What you just said indicates you haven't taken into account the full requirements of the installation. Assume a street with 14 houses and out of those 14 only 4 or 5 are stressed with outstanding sewerage issues. The requirements require you to design and build the system as if all 14 people are ready to hook in; so you have absorbed all of the expense for not only your own sewerage but all or your neighbors as you go up the street and are also required to bring that pipe to their property line so the only remaining expense to them is to connect. If you take the position that you can do that and at the end of the day I am one of those four – and the city takes it over I have just built for the city's benefit and am unable to recoup any of the cost. The turmoil it creates in the neighborhoods because people say why should I pay to solve your problem when you are required to solve it anyway and wait to the very end and pay a per capita cost based on the old project and put the money up when they are ready to connect and that is the recurring problem in coming up with a fair system. The cost of bonds is very expensive because none of these private entities are bondable. You are not just securing the premium you are securing their entire exposure. Before they give you the bond they want you to secure the potential total liability so you have to get a letter of credit secured by your house or a mortgage that will cause additional problems in the neighborhood. We need to look at these things from the dynamics of the people; the issue is the contribution. You should wait and let it work a while and you should also draw distinctions between gravity and pressure lines because they are two different technologies. If I am responsible for maintenance to my system I want to control who comes in because if the city can authorize anyone to come into the system I would have no control. The biggest thing with tying in is the laterals.

**Councilor Destino** asked is the statement true that people have to put forward their houses to get these bonds.

**Mr. Magoon** stated he thinks there is a big difference talking about a single house verses a big development being built by a contractor; those two situations are different. If me as individual went to get a bond cost would be more significant then a contractor who does this everyday. He thinks in the context of a private sewer extension project and talking about the cost and whether it makes sense to go forward how you are going to secure that is part of that cost. The concern is what will happen during that 5 year period. It creates a lot of confusion in those interim periods on who and who can't connect. He feels once it is operational the city accepts it and there is a performance bond in place to addresses those issues.

**Councilor Destino** stated for one or two houses you have to put up a performance bond and have to put up your house to do it.

**Ms. Lowe** stated there is a provision for escrow and presumably the construction costs will not be that substantial. This would be something they would be able to finance. If you take that into account and carve out an approach for a single home to connect then when you carve that out you would address the bond issues as well.

**Councilor Destino** stated the other issue the Council brings up is why anyone would do it. We are not talking about putting a trunk line in and all the laterals. How much of an expense are we talking about and is there a majority of houses that have to tie in to get an application passed.

**Mr. Parisi** stated it is our requirement as we do for all sewer projects to make sure we complete the work from start to finish including laterals to the property. It makes sense to install the laterals as roads are already dug up.

**Councilor Destino** firmly believes that everybody who ties into the city sewer system should pay a privilege fee.

**Councilor Grow** asked if the people building the sewer themselves would be exempt from the privilege fee.

**Ms. Lowe** stated the way it is written is that everybody pays a privilege fee.

**Councilor Grow** stated if I built the sewer do I also have to pay a 40% privilege fee in addition to the cost of the sewer?

**Ms. Lowe** stated the privilege fee is referenced in the ordinance and regulations and as each extension goes on line there should be a privilege fee assessed. If the city is going to encourage private construction of sewers they are not there to

recoup the costs but are there for people that need to connect to sewers to assist them. If someone applies to build it separately it is not the municipality's responsibility to insure it is risk free for them.

**Councilor Tobey** stated say the four houses out of 14 are the high end houses and in that case it would be well worth their effort to put that line in.

**Councilor Grow** stated they could just as easily be the four that aren't high end.

**Councilor Foote** stated once on Western Avenue those people tied into the sewer and they were told that anyone who comes afterwards would be appraised a cost and then it was changed that any money would go to the city. That was changed mid-stream.

**Mr. Parisi** doesn't believe that project is operating under any different rules and regulations; it is whatever rules and regulations were in existence at that time.

**Councilor McLeod** understands the plight of the people for doing this. They are having problems and this is cheap way because it is easier done privately then publicly. Before we accept this why can't we put forward the fee that would have cost them to hook in with the other six houses.

**Mr. Parisi** stated we are asking those people who don't join the project initially what they should be paying and who they should be paying and that is in the existing regulations. They submit the cost to the city and that is per unit cost. In that 5 year period each person would pay those fees which would go back to the association to eventually lower their costs and after 5 years the fees go to the city. He believes the 25% bond has always been there. We have reduced the amount of years they are required to maintain it.

**Councilor Grow** stated the problem is in the definition of acceptance of the sewer.

**Mr. Parisi** stated when flows go on we own the sewer but we are not relieving the applicant of the responsibility of maintenance for three years. The other regulations spoke about the collection aspects. We strike all of that language and say that is the applicant's risk. When someone comes to us to tie in we won't be charging them what they would have to pay the applicant. Everyone who has frontage to the sewer would be assessed. On top of sharing the cost of the sewer construction there would be a privilege fee assessed to each home.

**Councilor Grow** stated if we did a public project we would never forgive the betterment so why is that any different then a private project.

**Mr. Parisi** stated that is the difference between public and private where the applicant takes the risk.

**Councilor Grow** stated or it is a way for the city to get out of providing sewer.

**Ms. Lowe** stated the one who builds the sewer is primarily doing the service for themselves and the city secondarily. It is not for us to help them try to get the best return on their investment.

**Councilor Grow** stated we have some choices in the city where people have to get sewer.

**Ms. Lowe** stated there is no dispute over certain single homes; we are talking about large developments. The city is not in the business of trying to maximize someone's return on their investment.

**Councilor Destino** asked about the city splitting the cost 50/50 of paving a private.

**Mr. Parisi** stated the difference is that is a publicly constructed project on a private road.

**Councilor Destino** stated if 6 out of 10 voted to pave the road and all 10 receive betterments you can't apply the same to the sewer extension.

**Councilor Tobey** stated it seems there are three things here, private project, public project or nothing. If we go with the first it is a private sewer project and he asked what the city is looking to protect of its own interest. Is the system up to specifications and whatever financial we get, we get. The other options are the public project or nothing happens. The city is in tough financial straits. Let's assume the three projects in the CIAB report – what would the city do if one of those three wanted to do it as a private sewer extension.

**Mr. Magoon** stated there are a whole lot of ifs in answering that question. He feels there could be a private project to sewer but not without first answering a whole lot of questions.

**Councilor Tobey** stated we would work with them

**Councilor Grow** asked at what point is a private project entertained as a public project.

**Mr. Magoon** stated it is certainly problematic and the implications of that 25% contribution to new projects is significant and an important part of the discussion as well.

**Councilor Destino** would like to hold off on these regulations and would expect a redline copy of these regulations as soon as possible.

**Mr. Parisi** will work on doing that and suggested you might want to schedule a more specific meeting to discuss this.

**Councilor Destino** stated we have received answers to some of the questions from last time.

He asked about the request for proposals (RFP) for a facilities master plan.

**Mr. Magoon** stated that is out and advertised.

**Mr. Parisi** stated we are to receive proposals by 9/7<sup>th</sup>

**Councilor Destino** asked if there is no price put on this RFP.

**Mr. Parisi** stated it is the proposal that would be evaluated

**Aaron Cilluffo** stated we evaluate on the merits, not the price.

**Councilor Tobey** asked how much money is available.

**Mr. Cilluffo** thinks it is \$300,000.

**Mr. Magoon** believes it is \$100,000.

**Councilor Tobey** asked to please get us the number and the source.

**Mr. Parisi** stated it is bond money, part of the presentation of funding the CSO and other sewer project. The loan authorization is for the \$30 some odd million and was approved by the last City Council.

**Councilor Destino** asked for that number for the next City Council meeting.

He also asked what we have asked for in the RFP.

**Mr. Parisi** stated they will present the bid documents to the City Council as well.

**Councilor Hardy** asked if the information on the RFP will be used for future development.

**Mr. Parisi** stated the information will be used for identifying and recommending the areas in the city that should be sewerred.

**Councilor Hardy** asked what about North Gloucester.

**Mr. Parisi** asked is a component to look at the capacity issue for the STEP.

**Councilor Tobey** referred to page 17 on the discussion of public participation requirements and refers to the contractor having the responsibility to meet with the Gloucester Sewer Commission. He asked what is the Gloucester Sewer Commission.

**Mr. Parisi** stated that would be the DPW Director and Engineering staff.

**Councilor Tobey** stated talking to staff is not public participation and asked that be looked at and that the Purchasing Agent issue a corrected addenda and it might be useful for this contractor to talk to the City Council.

**Mr. Magoon** stated there is no Gloucester Sewer Commission and he agreed to issue an addendum.

**Councilor Destino** stated that state statute says it has to be either a sewer commission or selectmen or city council.

**Mr. Parisi** will look at that language and clarify that.

**Councilor Destino** stated the second is the moratorium. The two proposals are the advisory committee and he thinks we have come to a consensus with the Council that maybe that isn't the best way to do this; that the rules and regulations need to be in place to allow these things to move forward. This means we have them in place, as written but may need some tweaking and if want Council participation in that process, we would gladly be willing to assist you. He asked that it be redlined and soon as we get it in a matter of hours it will go back to the Administration to be accepted by the DPW Director to allow these things to happen.

**Councilor Tobey** asked if that can happen without the facilities plan in place.

**Ms. Lowe** stated you can have the rules go ahead and recognize there is a facilities plan in process and once that comes on board then we can amend the rules based on the facilities plan.

**Mr. Magoon** suggested and if the Mayor concurs that we also perhaps in the interim move forward with a process to accept individual single homes and allow those to move forward. He doesn't think the sewer regulations are really intended to prevent a connection to single homes.

**Councilor Grow** asked for clarification of a single family home and whether or not a two-family by right would be considered as a single family for sewer connections.

**Mr. Parisi** stated it is how many dwellings are on a lot.

**Ms. Lowe** stated you carve out for a lot with a dwelling, single or duplex that is in existence.

**Councilor Destino** stated he hasn't heard any dissenting opinion from this Council that you don't already have that authority to do that.

**Mr. Parisi** stated we can lift the moratorium on one lot extensions.

**Ms. Lowe** stated amendment to the rules can be done and can be done very quickly.

**Mr. Parisi** stated we can publish something that in effect allows the city to approve those extensions already in existence.

**Councilor McLeod** stated that is what we wanted to hear; we want to get the backlog of those people who have problems a chance to correct the problem.

**Councilor Destino** stated he is not sure one lot will address all the backlog. He doesn't want that mini regulation to forego the main portion.

**Mr. Parisi** stated that won't stop with what needs to be done.

**Mr. Magoon** stated the reason they put forward the advisory committee was because they thought the City Council requested that.

**Councilor Hardy** asked a question regarding private sewer extensions, systems, designs; are there any that will never be accepted by the city or are they all predicated on the 5 year acceptance of the city. If a private developer were going to develop a private system would it eventually have to be taken over by the city.

**Mr. Parisi** stated anything constructed within the time frame of these regulations in existence now with what will be proposed will be accepted by the city.

**Councilor Hardy** stated if that would be mandatory acceptance by the city.

**Ms. Lowe** stated you are describing the situation with Annisquam Woodlands which is a connection and because it is a connection and a certain type of real estate ownership, it stays in private operations and ownership. The on site sewer which is tying into the existing nearby step sewer will be controlled and operated by the condo association.

**Councilor Grow** asked would that be much the same as the connection to your house.

**Ms. Lowe** stated this is a very specific regulated permit with conditions imposed in the permitting process in order to allow that, plus you have unique real estate situation with condo associations with Cluster developments.

**Councilor Grow** stated the point of the moratorium was to get grasp on the private construction of privately funded public sewers; yet the recommendation is we don't accept any private sewers in the foreseeable future. Our goal right now is to encourage and facilitate the building of private sewers because we as a public entity don't have the funding to publicly construct these sewers.

**Mr. Magoon** doesn't feel that is true and stated initially there were concerns about privately constructed public sewers. The initial suggestion by the task force was not to allow that and put a moratorium in place. That discussion has evolved into one of amending the policies to better address issues. The issue of the city's ability to publicly fund construction of sewers is a separate discussion and there may be situations where it may make sense for privately constructed facility to precede the city's priority list of timing in order to move forward with that. The city's ability to fund and construct public sewers is a separate discussion.

**Mr. Parisi** stated the city has and the task force has tried to identify priority areas to sewer and money available we would focus on those priority areas and there are infill areas and other areas that people desire to connect because of failed septic systems. We have identified areas where we want to bring sewer to the neighborhood because it has a larger impact and he feels that is where the city would start its progress in installing sewers in the future.

**Councilor Grow** stated we are not trying to facilitate private construction; we are trying to clarify how those projects go forward.

**Mr. Parisi** stated it is because there are environmental impacts which give the city good reason to invest its resources of time, energy and money into installing these sewers.

**Councilor Grow** stated we ought to have incentive to get these projects done privately and ought to be facilitating this.

**Mr. Parisi** stated the benefit of revising the regulations and making them work is so areas can go forward and resolutions can happen going forward. We are trying to emphasize the need to improve the regulations.

**Ms. Lowe** stated we are also waiting for the facilities plan and that will tell you where you want to authorize private construction.

**Councilor Grow** asked where we are on the sewer capacity of the treatment plant.

**Mr. Parisi** stated we have issues we have to deal with as far as equipment and renewal but the CSO will help with the capacity.

**Councilor Tobey** stated you are going to apply for the MPDE permit and presumably that approval continues to require information on existing capacity and plant capacity and asked are you equipped to answer the questions.

**Mr. Parisi** stated the application has been filed and he will provide a copy for the City Clerk's office.

**Councilor Destino** the last three recommendations are financial in nature. The first is the impact of the 25% on the general fund, the sewer stabilization fund and the analysis of funding sources. He cautioned the Council that this is a fact finding mission and there is nothing in front of the Council for vote.

**Tom Moses, CFO** stated the numbers speak for themselves. The 25% for sewer expansion that we have historically paid out of general tax revenue cost the general fund \$1.2 million annually and declines over the next 20 years. The impact of continuing that policy is that \$14.9 million project cost about \$400,000 to the general fund per year. This is not merely a sewer decision or sewer analysis this is part and parcel of the entire financial picture of the city. We weigh capital needs with operations needs every time we do a budget, approve a loan order or approve pay as you go funding; so the impact of continuing this particular policy at this particular level, he doesn't believe cannot be separated from school funding issues, opening fire stations or any other financial decisions in the city.

**Councilor Destino** stated opinion aside, if the private extensions are part of the policy those people won't receive the 25% subsidy and on top of that they will pay a privilege fee and how do we decide which ones will be public and which ones would be private.

**Mr. Moses** stated if it was a purely financial decision which he doesn't think it is the city would encourage private sewers but he doesn't feel that is the whole decision making process.

**Councilor Destino** speaks on the issue of fairness and that the 25% subsidy went out to North and parts of East Gloucester and looking forward – money aside – the issue of fairness.

**Mr. Moses** stated the task force premise for public sewers were that they provided a public benefit. They were necessary for protection of the environment, cost effective solutions for large sections of the city and that is how the sewer task force envisioned public sewer projects. That said there are smaller pockets and in order to mobilize a public sewer project for say 14 homes it turns out to be very expensive – so it really has to be considered on a case by case basis.

**Councilor McLeod** asked how many mandatory projects we have facing us now.

**Mr. Moses** replied none.

**Councilor McLeod** asked then why are we worried about the 25%, because the people who got the 25% were mandated and if we are encouraging private to save both the homeowner and taxpayers and if it is mandatory then the city should cough up its share.

**Councilor Destino** stated a lot of projects that weren't mandated also required the 25%.

**Councilor Tobey** stated when he first came back to Gloucester as General Counsel in 1982 the city under a dissent decree was required to build sewers at Bass Rocks and Brier Neck and that was a 25% and that has become for better or worse become an expectation. That turned into 25% or \$6,000, whichever happened first, so if that standard stayed on the books and we did find ourselves mandated to do sewers particularly as costs go up and difficult areas, that \$6,000 could be whole lot less than 25%. He noted for the record that he circulated questions to the Administration, fellow Councilors, City Clerk and Clerk of Committees by e-mail and asked that they be attach to the record. He pointed out the numbers do speak for themselves and as we amortize that debt currently attributable to sewer betterments borne by the city. In fiscal year FY2011 it is only going to be a cut in expenditure of \$138,000 and that is not a lot of money as against the scope of all the issues we have. He shared the model of what Essex and other communities have done and would simply say do we have in a model of Essex where betterments were assessed the day the project began, so project borrowing costs could be managed better along the way and debt service costs could be avoided during the 20 to 30 year of the debt. Do we have an alternative way to better help homeowners with the cost of sewer construction when we have to do it as a city.

**Mr. Moses** stated that potentially does have a benefit and when he ran through some numbers he assumed a three year build out with each year one-third of the cost of the betterment. This particular method of assessing betterments has a way of minimizing the need for the general fund or some other resource to carry the debt on a temporary basis until cash flow is sufficient to service it. The net effect would have been to lower betterments hypothetically based on these assumptions between \$700 and \$800 per unit. However because some folks would be paying one-third of the betterment earlier and then the full betterment after three years, from a net present value basis the difference is much less – the payments are front loaded in Essex so the difference is only about \$200. Essex's method didn't require any special legislation, did not require any legal proceedings. What they did was within Chapter 80 and 83. However, their general fund funded 28% rather than our 25% but that was all debt excluded; so that burden placed on the general fund did not take away any services and that is not what happens in Gloucester.

**Councilor Tobey** asked if that is a model we are pursuing.

**Mr. Moses** replied yes he thinks so.

**Councilor Hardy** asked if we are up to date with billing to the Town of Essex.

**Mr. Moses** stated up front payments are fully paid and user fees are on an ongoing basis.

**Mr. Parisi** stated we are working with the billing of the flows. We haven't issued the first bill but will be doing so shortly.

**Councilor Hardy** asked if Mr. Parisi had a date in mind for the first bill to go out on the flows.

**Mr. Parisi** stated they would try to capture it in the next billing period.

**Councilor Grow** asked if it is your expectation that we would not be going forward with any public project until we have lifted that 25% differential. Are we in a financial position to pursue that at all.

**Mayor Bell** stated we told bond council based on their inquiry that this could have an adverse affect and will not be going forward and secondly we can't have the kind of devastating cuts we have had in the last 5 years and in good conscious proceed as business as usual from his perspective and based on information we have now. He stated there is not going to be any change in local aid to bring us back to 2001 and 2002 levels until possibly the year RY2010 and maybe beyond. The City Council has had to deal with a very tough budget this year and based on information he has now has no choice in order to be fiscally responsible to this community not to go forward with the 25%. There are also other portions of this community that were sewerred over the years that the 25% was not available. It is not a fairness issue. It is his understanding that the 25% was put in place for extraordinary cases where the cost of the project was so exorbitant to the neighborhood.

**Mr. Moses** stated Essex's contribution of 28% by the general fund was not done arbitrarily. When they mapped out their sewers they mapped municipal properties along with private properties and determined 28% of the usage was municipal properties. If you apply that same principal to a neighborhood entirely privately owned there is no public benefit to that.

**Councilor Tobey** stated under Mayor Alper the City Council determined the 25% based on the fact we all had a stake in the harbor, the Annisquam River and Good Harbor beach waters being pure and it was almost arbitrary.

**Ms. Lowe** stated when you assess betterments you have to do it on that basis and when you do a split you have to argue that part of the city is paying for that there is some public benefit to it. She also emphasized that the betterment approach is not new; it has been 25% since the mid 1980's; some projects were mandated and some were not – Little River is not mandated.

**Mr. Magoon** referred to the \$138,000 reduction and clarified that is a reduction of the 25% that is currently being paid, we are not talking about the \$138,000 reduction, it is how much we are going to add to that towards that 25%; how much that is going to grow.

**Councilor Tobey** stated an analysis of this was also to show the sum paid down that could be allocated and asked could we align those costs to match the relevant revenues.

**Stevan Goldan** stated the City Council in discussion here is focusing on hook ups for private sewers on houses and people who need it but we also need to look at West Gloucester and all the naked land. We are talking about development issues and that needs to be separated. It is unfortunate it hasn't been addressed at all. The City Council has just been talking about technical issues and they are just going to go in by right. You are talking about acres and acres of land in West Gloucester and other areas and you need to establish a procedure where sewers go. The issue of sewer extension verses sewer connection and the City Council really has to deal with it. It came up in Carrigan's proposal in Annisquam and in West

Gloucester Dubrowski told the city that anything over one connection to one house or building should be considered a sewer extension. He did call another town in Massachusetts where they were consultants to and they are following that. There are two groups in this city and 99.9% are getting hit with huge bills, the highest sewer and water rates in the state and then you have this other group of people that have lands that were literally going for pennies and now are going for hundreds of thousands of dollars and the people are paying for it.

**Councilor Destino** stated one of the main recommendations is a Daylor study for the whole city.

**Stevan Goldan** stated there are questions about flaws in the Daylor study and good points have been entirely ignored and the flaws have never been examined. The Daylor needs to be re-looked at. As far as 25% because the rest of us are paying for it vacant land is getting the same 25%. Once you resolve a fair subsidy policy. Other towns and cities have done it; in Provincetown and the people that needed it paid for it and the others didn't get a betterment. There are ways of handling this that need to be looked at – if you completely ignore the undeveloped land – if you work out a fair system. He hopes you don't allow it to just go forward – anybody by right can get a private sewer extension.

**Mr. Parisi** asked where Mr. Goldan got the \$200 million figure for sewer future cost – that is not appropriate

**Councilor Destino** stated the City Council will get the rules and regulations and put forward to the Clerk's office to accept it as an addendum Tuesday. The Master Plan RFP and monies available will be given to the B&F Committee and to all City Councilors. Also the short term policy on single lots.

**Councilor Grow** stated we need to continue discussion of the 25% and asked if that needs to come forth as an order.

**Councilor Destino** stated he will wait for the Mayor to put that forth to debate that discussion and hold a public hearing.

**Mayor Bell** will confer with Mr. Moses and don't see any reason to do that sooner rather than later. He thanked the City Council and stated the ultimate goal is consistency in policy and sometime to get there takes the kind of input like tonight.

**Councilor Destino** stated we will meet again on this issue and asked that any public comment be submitted to the Clerks office to help us deliberate on the issue. He thanked everyone for coming.

The meeting ended at 9:35 p.m.

Respectfully submitted,

June Budrow  
Clerk of Committees

## **GLOUCESTER CITY COUNCIL**

### **Special City Council Workshop**

### **Sewer Task Force Report**

### **Tuesday, October 10, 2006 – 7:00 P.M.**

### **Kyrouz Auditorium, City Hall**

**Attendance:** James Destino, Chairperson and Councilors Jason Grow, Jacqueline Hardy, Michael McLeod, Walter Peckham, Sefatia Romeo, Alphonse Swekla, and Bruce Tobey

**Also in Attendance:** Steve Magoon, Joe Parisi, David Knowlton, Linda Lowe, Richard Gaines, Ab Khambaty, Mark Hubbard, Daniel Greenbaum, James Grove, Stevan Goldan, James McKenna, Richard Montgomery, Charles Crowley, Edgar Kane, Michael Faherty, Kathleen Hurlburt

**Absent:** Councilor John "Gus" Foote

**CALL TO ORDER:** The meeting was called to order at 7:00 p.m.

**Councilor Destino** provided an opening statement.

**Councilor Tobey** has submitted his own marked up version of this and asked that his questions be addressed going forward with the review. He has some skepticism on how this is to be promulgated. He understands that General Counsel feels this is something the DPW can do pursuant to M.G.L., Sec. 83-10 but with all due respect he disagrees and feels that this needs to be an enactment of the City Council as an ordinance, just like the sewer use rules and regulations were enacted in 1983.

**Councilor Destino** stated we have a sewer ordinance which addresses a lot of the sewer policy in the city and we have these rules and regulations which are adopted by the DPW Director which are not really voted on and in the

ordinance. He referred to Section 2-12 of the Charter regarding delegation of powers. The City Council may delegate to one or more city agencies the powers vested in it to issue licenses and permits and we also have the same ability to rescind that delegation.

**Joe Parisi, DPW Director** stated the City Solicitor can elaborate on why rules and regulations do not need Council approval, but ordinances do. The ordinance lays the framework for how to proceed with sewer extensions and the rules and regulations provide a detail in which to do so and shouldn't conflict with the ordinances; they are to back up the ordinances and not to contradict.

**Councilor Tobey** stated it says, "If any portion of these regulations is inconsistent with any other existing City of Gloucester ordinances or regulations relating to sewers these regulations shall prevail." That means the DPW Director could repeal anything the City Council has enacted as a matter of ordinance by doing a regulation. He asked if he is to correctly understand that is not the DPW Director's intention and stated further that sentence should come out since it is a moot point.

**Linda Lowe, General Counsel joined the meeting at 7:10 p.m.**

**Mr. Parisi** stated it is not his intention to write regulations that would change or conflict with any ordinances and will let City Solicitor, Linda Lowe comment on that. He reiterated the questions. One was whether the City Council should have the authority to approve the regulations as they do with the ordinances and why we believe they don't and the second question was can a regulation defeat the enacted ordinances by having them promulgated and therefore perhaps sidestep an ordinance that was passed by the Council.

**Councilor Destino** reread Sec. 2-12 of the City Charter into the record. "The City Council may delegate to one or more city agencies the powers vested in it by the laws of the Commonwealth to grant and issue licenses and permits and may regulate the granting and issuing of such licenses and permits by any such city agency and may in its discretion rescind any such delegation without prejudice to any prior action which has been taken." When we talk about rates and fees they need City Council approval. It is a philosophical question on the difference between the sewer ordinance and the department head's regulations and rules.

**Linda Lowe, General Counsel** stated the sewer rules and regulations authority stems from M.G.L. Ch.83, Section 10 and there isn't anything else in the law that supports the position that it is for the legislative body to enact those rules and regulations. Our city ordinance on sewers delegates authority to the DPW Director, particularly in the area of betterments. That is why Ch. 83, Section 10 of M.G.L. is correctly interpreted by the City of Gloucester to say that sewer rules and regulations come from the DPW Director, as they have for decades. These particular rules are more controversial currently but the rules that were enacted 4 or 5 years ago were not the first City of Gloucester sewer rules and regulations. The second issue is that some take the position that under Section 7-16 of the City charter those rules and regulations apply to sewer rules and in her opinion it does not. It applies to beaches, parks and recreation and other facilities such as beaches and parks. We had a court case where a judge has taken the same position that it doesn't apply to sewer regulations, so the authority to enact the rules is not for the legislative body. Whether or not there are inconsistencies between the ordinances and the rules, there is no intention to have inconsistencies. The sewer ordinance can be somewhat arcane and complicated so that language is put in the rules and regulations just in case there was an unapparent or unintended inconsistency, so that the rules didn't have to be repealed because of that. She wouldn't disagree with the position that the ordinances generally would prevail but it still seems helpful to have that language in there in case there was an unintended inconsistency.

**Councilor Tobey** stated the pretreatment ordinance is an ordinance enacted in 1983 by the Council, more arcane than this in its detail, pursuant to authority of 83-10. While it is relevant to talk to Section 7-16 and the DPW Director's authority and types of facilities, there is still language about rates and fees and how they should be approved which remains to be addressed in this analysis because there are fees to be set unilaterally in this regulation that he feels are contrary to the Charter.

**Councilor Destino** stated most of us realize that private sewer extensions have to be part of our sewer rules and regulations or by ordinance and that we have to find a way to get this done and come to a consensus with the administration and the public to get this done so it works out for all these neighborhoods that need it and for the city.

**Mr. Parisi** stated we do realize that private sewer extensions are here and need to happen to resolve some of the issues, particularly those that the city cannot focus on. There are little areas of sewerage that could go ahead and these regulations will help to tighten up some of the procedures. We have done quite a bit of work to change what we believe were some of the problems with the old regulations. Even though we don't need Council approval we



certainly want airing of the regulations and discussion of those. The first part of the regulations is a preamble where we are talking about the effectiveness of the language.

## City of Gloucester

### Preamble

1. These regulations are promulgated pursuant to Massachusetts General Laws Chapter 83, Section 10 and serve to amend any existing City of Gloucester sewer rules and regulations. If any portion(s) of these regulations are inconsistent with any other existing City of Gloucester Ordinances or Regulations relating to sewers, these regulations shall prevail. *They are to provide assistance to anyone, a person or entity other than the City of Gloucester (hereinafter referred to as the "City"), who wishes to install a sewer extension that shall ultimately become owned, operated and maintained by the City. The City shall not allow any private sewer extension construction that is not intended to become part of the Gloucester public sewer system at the completion of construction.*

*2. Any private sewer extension Applicant shall provide the City with a document that states he/she understands, accepts and shall follow these regulations.*

**Councilor Tobey** questioned if the preamble is part of the regulation? As was the sewer use ordinance, which was enacted by the council and asked why isn't this subject to council enactment, too, or was that earlier enactment unnecessary? A regulation can't defeat an enacted ordinance, can it?

**Councilor Destino** asked why the applicant would provide the document.

**David Knowlton, City Engineer** stated the permit is applied for well into the planning of the project. This statement was to make sure that everyone understood the rules and regulations and that everyone plans to adhere to them.

**Councilor Destino** stated he would think the city would provide the document.

**Mr. Knowlton** stated they could do that.

*3. The City shall approve of all aspects of the sewer extension, prior to starting construction. All abutting properties, whether active participants in the project or not, shall be provided a sewer connection to their property, in accordance with City standards. Undeveloped land shall be factored into the sewer extension and service connections shall be provided for it in accordance with current Zoning requirements. The cost of said connections shall be borne by the Applicant.*

**Councilor Tobey** asked what does that mean.

**Mr. Parisi** stated that is to address issues where the developer or applicant doing a sewer extension is not providing for connections along the way; that is something we would do with any city projects to accommodate future projects whether or not they are participating in the project. We want to make sure all connections are provided because we don't want to disturb the roadways after the sewer is installed and all connections are in.

**Councilor Tobey** provided a scenario that a private sewer extension runs along one large parcel 2500 feet long in an area where there is 100' zoning and which could potentially become 25 lots. He asked are we going to encourage and enabling that scope of development without public input.

**Mr. Parisi** stated whether there is a connection or not the zoning will dictate how many parcels will be developed. We are certainly providing for the future connections if the property owner decides to do so.

**Councilor Tobey** stated there is some concern with that; you certainly are accommodating the existing ordinance scheme for its potential.

**Mr. Parisi** stated the reality is that after sewers are installed parcels are developed that may not have been developed before and we can't prevent it from happening unless there are radical changes to the zoning.

**Councilor Destino** used the scenario of a small street with 10 houses and 8 people want to get involved in building the private sewer extension. He asked for clarification if the other two stubs for those two homes that don't wish to connect must be put in and would you also install a stub if one of those was an empty lot.

**Mr. Parisi** replied yes.

**Councilor Peckham joined the meeting at 7:25 p.m.**

**Councilor Hardy** stated if the city were to install the sewer then they would be required to put in the stub and if the private developer put in the sewer then they would be required to put in the stub. She asked when the city takes over the sewer line and those people decide to hook into the sewer, does the money go to the city or to the homeowner with the capital outlay.



**Mr. Parisi** replied the stub is part of the project cost and the applicant would pay for the stub.

**Councilor Hardy** stated once the city takes it over and that person wants to connect in do they pay the city or the person who put in the sewer.

**Steve Magoon, Chief Administrative Officer** stated that is one of the large remaining questions, working out the finances of private sewers and future connections. This document does not address that one way or another. That is probably the biggest issue we need to resolve.

**Councilor Grow** stated in a sense it does address it because Section 13 is crossed out but it doesn't tell you ultimately who is going to get the money.

**Ms. Lowe** stated it doesn't address it. It is complicated and there are a number of approaches you can take. It seemed like people still wanted to discuss that a great deal so we felt better to stick with the nuts and bolts aspects of this and then come back to what happens to the financing. It is now left to be discussed after you have worked out some of the other issues.

**Councilor Hardy** asked that a list be started of issues to be addressed; such as the issue of payment for hook in after the city takes over the sewer.

**Mr. Magoon** stated the way this is written now doesn't provide a mechanism to reap the costs for future connections.

**Councilor Grow** asked if we have to put in a stub for every potential lot on public projects.

**Mr. Parisi** replied yes.

**Ms. Lowe** stated the zoning language Councilor Tobey was questioning comes from the ordinances and from state law that the approaches on betterments and how you assess are done by current zoning and since that is the process we selected to assess betterments it is the way you bill sewers as well.

*4. The City shall own the private sewer extension at the completion of its construction. The Condition for City ownership is defined herein. Connections to and use of the sewer extension shall only be allowed after ownership by the City has been established. The City shall not assume ownership of a sewer extension project prior to completion of its construction.*

**Councilor Destino** asked for a definition of "completion of construction".

**Mr. Knowlton** stated that is defined on page 9, which is a rewrite of section 8; ownership of a private sewer extension. There are a number of submittals required prior to the city assuming ownership.

**Councilor Tobey** asked if completion equals city's assumption of ownership.

**Mr. Parisi** stated the project needs to be physically complete but there are also other submittals required.

**Mr. Magoon** asked that everyone refer to section numbers and not page numbers.

**Mr. Parisi** stated that is Section 8, part b.

**Councilor Tobey** asked if the preamble is part of the regulation.

**Ms. Lowe** stated it is part of the document, but wouldn't say it is of equal force and effect. The preamble is to clarify what the intent is and helps to interpret it. A preamble is purely introductory and should not have section numbers assigned to it.

## **RULES AND REGULATIONS PERTAINING TO THE ACCEPTANCE OF PRIVATE SEWERS**

Section 1. **Effective Date:** These regulations were published in the Gloucester Daily Times pursuant to M.G.L. C.83 S. 10 on \_\_\_\_\_, 2006 and take effect immediately upon publication.

Section 2. Administration of These Regulations. *These regulations are to be administrated by the City of Gloucester's Department of Public Works (DPW) Director or his/her designee (City Engineer). An Applicant seeking to construct and maintain a private sewer extension for the City of Gloucester must have said private sewer extension approved by the DPW Director or his/her designee.*

**Councilor Destino** asked if Ms. Lowe has approved this language and stated it seems like a lot of the legal language has been replaced with DPW/Engineering language.

**Ms. Lowe** stated she has read the document which has gone through several iterations and there is a lot of technical language which addresses construction of sewers; you don't need legal language to explain that.

**Councilor Romeo** asked have you read the most recent document.

**Ms. Lowe** replied yes.

### Section 3. Definitions.

*a. Private Sewer Extension. A private sewer extension is a sewer extension, including pipe, pump stations and appurtenant works, constructed by an Applicant, other than the City of Gloucester, that shall be owned by the City of Gloucester at the completion of construction.*

**Councilor Destino** asked why you wouldn't say "construction by anyone, other than the City of Gloucester" and not "construction by an Applicant, other than the City of Gloucester."

**Mr. Parisi** stated the applicant certainly has to sign and we are trying to be consistent by using the word "Applicant". It means that person or entity who would like to construct a private sewer. We are deleting the language that says the private sewer extension is owned by the applicant for a period of 5 years. It is the city's sewer line once construction is completed and maintenance is something they may be required to perform over the next 5 years but the ownership is not there.

**Mr. Magoon** stated "Applicant" is defined in item 9.

**Ms. Lowe** stated you could add to that definition to make it clearer.

*b. Sewer Extension. A sewer extension is an extension, including pipe and appurtenant works, of a previous sewer extension that is typically installed parallel with, and typically within, public or private rights-of-way, to which sewer connections from abutting properties are made. All sewer extensions are part of, and owned by, the City of Gloucester.*

*c. Sewer Connection. A sewer connection is the piped connection, including pipe and appurtenant works, starting typically within four feet of a building or a series of buildings to remain under common ownership through a homeowners association or other similar instrument, to the sewer extension. The part of the sewer connection on private property shall be owned and maintained by the property owner.*

**Councilor Tobey** stated he thought the sewer connection would be from the property line to the house and this didn't seem to equal that and he was further confused by the 4' reference.

**Mr. Knowlton** stated the 4' reference comes right out of the plumbing code and becomes the sewer after leaving the 4' distance from the house. Typically plumbers are required to work within 4' of a building or structure and licensed drain workers can work beyond that distance. He agrees the wording could be improved and he drafted language as follows: "The sewer connection is the pipe connection including pipe and appurtenant works starting typically within 4' of a building or a series of buildings to the sewer extension." The connection is from the main pipe in the street up to within 4' of the building. "The part of the sewer extension on private property shall be owned and maintained by the property owner." That goes for all installations. "In some cases if the connection is to remain under common ownership through a homeowner's association or other similar instrument the entire connection shall remain private."

**Councilor Hardy** asked if that means that from the property line to within 4' of the house there is an easement over that person's property.

**Mr. Knowlton** stated the city would not own or maintain that.

**Councilor Tobey** equates sewer connection with sewer lateral and the sewer lateral from his experience has always been from the house to the property line and that point of connection to the stub and asked are they different concepts.

**Mr. Parisi** stated a sewer connection is from the house all the way to the main for the most part. The responsibility ends at the property line. If there is something on private property that needs to be corrected it is the homeowner's responsibility.

**Ms. Lowe** stated we try to keep the language that is already in the ordinance which is based on the state law and DEP regulations because these terms should be consistent across the board

**Mr. Parisi** stated the city would typically install the connection from the main to the property line and a property owner has to do the rest of the work to get it to the house.

*d. Sewers Constructed as part of the Subdivision Process. Sewers constructed as part of a subdivision process shall not be subject to these regulations. Subdivision sewers shall undergo planning board review, with input from the Engineering Department and must apply for and receive a MADEP sewer extension permit.*

**Mr. Parisi** stated that is how it is now and there is no change to that.

*e. Private Sewer Connections to remain Private. Sewer connections constructed under the subdivision process, that connect a series of buildings to remain under common ownership through a homeowners association, are not subject to these regulations.*

**Councilor Hardy** asked if the terminology “subdivision sewers” is interchangeable with “cluster developments” or are they something completely different than a subdivision.

**Ms. Lowe** stated cluster developments are confusing and best described as a variation of a subdivision. They are recognized as unique because they use space advantageously but the language of the cluster development process refers back to the subdivision process. It doesn’t mean these rules and regulations can’t be fine tuned if a cluster development comes up.

**Councilor Grow** stated for clarification that a cluster development is a type of subdivision.

**Ms. Lowe** replied yes.

*f. Applicant. A person or entity seeking to construct a private sewer extension *for the City of Gloucester.* City Assumption of Ownership of the Privately Constructed Sewer Extension. A private sewer extension is accepted when the DPW Director or his/her designee declares in writing that the extension is suitable for use and able to receive wastewater from users. This notice of acceptance shall be signed, dated and kept on file in the Engineering Department.*

#### Section 4. Technical Specifications.

*A. The private sewer extension shall be designed and constructed according to current City Standards, Specifications and Details (see Appendix A). The private sewer extension project must be approved by the DPW Director or his/her designee. All pertinent City ordinances and regulations must be addressed.*

*B. The private sewer extension shall be designed to accommodate any land that abuts or has legal access to the street(s) or way(s) being sewerred, regardless of whether the owners of said property are participating in the project or not. Service connection laterals shall be installed, from the sewer extension to the property line, for each buildable lot that fronts the sewer extension. Undeveloped land shall be factored into the extension, and service connections provided to their property lines, according to current zoning requirements.*

**Councilor Tobey** asked what that means; enough connections for all of the smaller lots that might be carved out of a bigger one? He asked what is the status of appendix A referenced in paragraph A.

**Mr. Knowlton** stated appendix A has been prepared and he has it on file in the Engineering Department; it has not been changed from what was previously submitted.

*A. The private sewer extension shall also be designed to accommodate future extensions. In some cases, the extension may be required to install larger pipes and pumping capacity to properly plan for future flows. The capacity of the private sewer extension (pipes, pump stations and appurtenant works) shall be approved by the City. The City’s Wastewater Collection System Facility Plan, once adopted, shall be the planning document used to size the extension.*

**Councilor Tobey** asked does that mean there shall be no extensions until the plan is done and what does that mean for a project like the Sam Park project?

**Mr. Parisi** stated we have to accommodate future flows that are part of the city’s overall waste water management plan.

**Councilor Grow** asked when this will become a valid document.

**Mr. Knowlton** replied that should be sometime early 2007. In his mind the only unplanned sewer extensions are Magnolia going out Western Avenue, past the Dr. Wolfe sewer which has been done and past Stage Fort Park. There are real questions as to what size pipe is needed to handle all the flow from Magnolia and should be sized to handle the maximum flow and a major pump station will have to be located somewhere near Stage Fort Park. In his opinion, all the other sewer extensions don't need that type of review; that was done during the Daylor Study. The real wildcard out there is the Magnolia development.

**Councilor Tobey** heard said that once the contractor is selected he has until early 2007 to provide the work required by way of a waste water management facilities plan. However, the language in the ordinance says, that plan "once adopted" shall be the planning document to size the extension and does that mean once submitted by the contractor or something different.

**Mr. Knowlton** replied that he expects there will be some dialogue on the results of the plan and final acceptance of that.

**Councilor Tobey** asked who adopts it.

**Mr. Parisi** sees the process similar to what went through on the Daylor Study where we had a defined sewer region that was adopted by due process by Planning and Development and the Council.

**Mr. Magoon** assumes it would come through the Mayor's office and come before the City Council for adoption.

**Mr. Parisi** stated it would be similar to defining the district that we did in the West Gloucester area.

**Councilor Tobey** stated the Sam Park project could be moot point given the time line but on the other hand he asked will a project like that fall under this regulations or will it be a subdivision driven sewer connection.

**Ms. Lowe** replied it is a subdivision.

*D. It is the City's preference that the sewer pipe be installed in existing public or private street(s) or way(s), rather than across private property. Private property installations shall be approved by the DPW Director or his/her designee in writing. Reduction of construction costs to the applicant is not a valid reason for such approval by the DPW Director.*

**Councilor Tobey** asked what is the basis for approval?

**Mr. Parisi** stated for better access and proper maintenance the city does not want sewer constructed through private property; we want to stay within the rights of way.

**Councilor Grow** asked if there is a situation where an easement is required to install a sewer line across private property and is that easement transferred to the city upon completion of the project.

**Ms. Lowe** replied yes, it would have to be.

*E. If private property construction is unavoidable, and approved by the City, all temporary construction and permanent access easements for maintenance and replacement shall be submitted to the City for approval, prior to City approval of the sewer extension. Said permanent easements shall be transferred to the City, at no cost to the City, when the City accepts ownership responsibilities of the sewer extension.*

## **Section 5. Fees and Bonds**

*A. General. It is incumbent upon the Applicant to pay all fees and provide all bonds associated with the sewer extension.*

*B. City Administrative Fees. The Applicant shall pay all City administrative fees associated with the sewer extension's design review and construction inspection, in accordance with the City of Gloucester Rules and Regulations and Ordinances.*

*C. 100% Performance Bond. The Applicant shall provide the City with an appropriate performance bond or equivalent escrow account, equal to 100% of the estimated construction cost, prior to starting construction of the extension. Said bond shall only be used by the City if the Applicant fails to complete the construction of the extension. In the event the bond is used to complete the project, the Applicant shall be deemed by the City to have abandoned the project and all Applicant rights to the project shall be waived by the Applicant. Any modifications to the extension during construction may require an increase on the performance bond's value. The bond shall be terminated when the City declares ownership of the extension.*

*D. 25% Maintenance Bond. The Applicant shall provide the City with an appropriate maintenance bond or equivalent escrow account for a period of 3-years after completion of construction, equal to*

*25% of the independently audited, final construction cost, prior to the City establishing ownership of the extension. Said bond shall only be used by the City if the Applicant fails to respond to issues of repair, operation or maintenance of the extension. The bond shall be terminated when the City assumes operation and maintenance responsibilities of the extension.*

**Councilor Tobey** stated the charter says all fees must be approved by the council and asked how that is established?

**Councilor Destino** stated that is a key section; with a new fee schedule. He referred once again to Section 7-17 of the City Charter that, “any rates, fees or other charges will be referred by the Director of Public Works to the Mayor for his review. The Mayor shall file a notice with the City Council and shall be approved by the City Council.” He asked how the DPW Director can put those in without a Council vote.

**Mr. Parisi** stated the fees are already in existence and the performance bond of 100% is typical of what we require during construction projects.

**Mr. Magoon** stated the performance bond isn’t a fee; it is a performance bond to insure performance of the project, that the applicant proceeds and constructs it in accordance with the plans.

**Councilor Destino** stated it is a cost associated with building the sewer.

**Mr. Parisi** stated the sewer itself is a cost. A performance bond is just the cost of doing business and it is factored into the cost to do the project.

**Councilor Destino** asked for justification of a 100% performance bond.

**Mr. Parisi** asked don’t you think it is prudent to be fully insured and capable of doing the project.

**Mr. Knowlton** stated we do require 100% performance bond on any capital construction projects and it has to be provided before we sign the contracts to start work.

**Mr. Parisi** stated if we were going to charge the applicant twice the fee we are charging today we would want to go to the City Council, but we are not talking about those types of fees.

**Mr. Knowlton** stated the fees on the books currently are \$1 per foot for design review based on the length of the sewer construction and a \$2 per foot for construction oversight fee.

**Ms. Lowe** stated the use of the word “fees” in the caption doesn’t mean it is fees assessed and created in these regulations. It is existing fees that come through the City Council.

**Councilor Hardy** asked if the fees and the administrative fees are captured by the person constructing the sewer as part of the cost, so they can divide it among the number of people going in.

**Mr. Magoon** replied it would depend on how they decide to divide the costs but they could include all those costs.

**Councilor Destino** referred to the following statement. “In the event the bond is used to complete the project the applicant shall be deemed by the city to have abandoned the project and all applicant rights shall be waived by the applicant.” He stated this is a private extension that isn’t supposed to be accepted by the city until after the 5 year period. He asked if the city deems the road isn’t up to standard and decides to use the performance bond to finish the project, does that mean as soon as the applicant defaults on finishing the project that the city steps in and owns it.

**Mr. Magoon** stated one of the things that occurs with performance bonds is that the company holding the bond isn’t eager to give up those funds to the city and the applicant who has put up the funds to secure those funds is not going to be interested to giving up those funds to the city, so it is in everyone’s interest not to have that bond be called and be acquired by the city to perform that work. We don’t want to call in that bond because we don’t necessarily want to have to go out and perform that work. It is only in those instances where the applicant has gone bankrupt and has left town with the project half constructed. You would then go to the bonding company and state that the applicant is in violation of the ordinance and the project is not completed but on the other hand if the road is not quite up to snuff you would negotiate with applicant and have them make those improvements rather than call in the bond.

**Councilor Hardy** stated our track record on when we call bonds isn’t very good on getting people to fix the road. She stated she has been trying to get Cherry Street fixed for some time and asked if that job was bonded.

**Mr. Magoon** stated to address the issue of trenching and road cuts we have also proposed an amendment to the excavation and street opening ordinance to hopefully address those issues.

**Councilor Grow** stated he assumes the final inspection includes all those aspects and will not sign off on it until everything is 100% complete.

**Mr. Parisi** replied that is correct.



**Mr. Magoon** stated if you have that 100% performance bond in place and haven't released it, that gives you leverage to go to the contractor to fix a problem, or you can call that bond, but hopefully not have to take that step to call the bond.

**Councilor Destino** asked what someone has to do to bond a project, say for \$250,000. Do they have to put up collateral in the amount of \$250,000 which the city is going to hang onto for five years until they accept ownership of the extension.

**Mr. Parisi** stated typically it is the contractor that is going to do the work that will secure a performance bond. It is a payment to the bonding company.

**Councilor Destino** asked is it insurance the contractor buys that the neighborhood will pay for.

**Mr. Knowlton** stated the bond could be secured by either the contractor or the neighborhood. The performance bond is eliminated once construction is complete, they have met the minimum requirements of the regulations and the sewer is accepted by the city. Then they can start to use the sewer and the maintenance agreement begins where we require a 25% bond for three years.

**Councilor Destino** stated that sounds contradictory; where it talks about the performance bond is says that as soon as there is flow the city has the ownership and they release the performance bond and then after three years they release the maintenance bond and he asked how has that changed from the past rules and regulations.

**Mr. Knowlton** stated after three years the city will release maintenance responsibilities and release the 25% bond.

**Mr. Parisi** stated there was five years maintenance on the previous sewer extension regulations and the city didn't own it or maintain it during that time. With these regulations we have immediate ownership once the project is complete and ready for flow. We can still require maintenance of that line and we are suggesting limiting that to three years.

**Councilor Destino** asked if the requirement of a 100% performance bond is a change from the previous regulations.

**Mr. Knowlton** replied that was an addition to the previous regulations. The previous regulations only asked for an escrow account or a bond worth 25% of the estimated project costs prior to the start of construction.

**Councilor Hardy** asked how expensive it is to purchase a performance bond.

**Mr. Knowlton** stated it is a very nominal cost. It is usually ½ to ¾% and depends on the institution and the past performance of contractor or the person applying for the bond.

**Mr. Magoon** stated it would also depend on the scale of the project. If you are talking about a major sewer construction project the requirements and necessity might be somewhat different than an extension for one or two homes and that is something that might be worth looking at.

**Councilor Hardy** is concerned someone might have to mortgage their house to put in a sewer line.

**Councilor Destino** asked how you justify the large shift from the past requirement of 25% of construction cost to 100% performance bond.

**Mr. Parisi** stated it was deficient in the regulations to begin with. We want to make sure the contractor does the job correctly and if they don't then the city will have something to fall back on.

**Councilor Destino** asked for an example of how many times you have had to call in a bond that was not sufficient to complete the project.

**Mr. Parisi** stated we have had problems with certain projects. The sea wall project was one where the city had to call the bond and we had problems in the past with the senior center. Contractors do run into problems so we need the ability to call in the bond.

**Ms. Lowe** stated if the intent in the city is to rely more and more on private construction of sewer extensions which then become public sewers, then you want to make sure all that work is done with sufficient guarantees so that the projects don't fail and we are not left with unfinished sewers all over the city. It was increased with the eye that there will be many more of these projects and they should be done more similarly to public projects.

**Councilor Grow** stated the way the current regulations are is that when a private sewer extension goes in the city owns it from the moment it goes into the ground and the point of contention is that we own it; we just don't take responsibility for it for 5 years. He asked if projects built in the last few years don't require maintenance bonds because we don't take any responsibility for that.

**Mr. Magoon** stated we have a 25% maintenance bond and if the bonds were put up for maintenance and repair of a facility that is not for completing construction, it is for repair and maintenance. If you have a project that is not completed and you are able to convince the bonding company to release those funds you still only have funds for

25% of the project. One of the things this does is to separate the two issues of completion versus maintenance and maintenance bonds are there to make sure if something breaks it can be fixed.

**Councilor Grow** stated we are clarifying at what point we own it.

**Mr. Parisi** replied that is correct. It is to be absolutely clear about the operation and maintenance. We are now requiring a 100% performance bond for completion and 25% maintenance bond for the three years, instead of five years.

**Councilor Tobey** asked when a subdivision is built including the sewer, at what point does the city own the sewer.

**Ms. Lowe** stated there are no formal steps to assuming ownership of a subdivision sewer. In her opinion that sewer is accepted as soon as the subdivision process is completed and fully accepted but there are always exceptions.

**Councilor Tobey** asked if when the Planning Board has authorized the release of the last lot the subdivision is deemed complete and city thereby owns the sewer.

**Ms. Lowe** stated there is no formal acceptance of the subdivision, but that would be true. As opposed to the subdivision streets, where it has been longstanding practice in Gloucester that we don't accept the streets, they are private.

**Councilor Tobey** asked if after the subdivision has been accepted is there any period of time a requirement of a 25% maintenance bond or any bond.

**Ms. Lowe** replied not to her knowledge but it is also closed out 100% and this is saying it is not because you have a different situation, perhaps with a less rigorous review, but yes there is a difference.

**Councilor Tobey** asked why anyone would want to build a private extension under this scheme. If our idea is to come up with a responsible scheme whereby the city will enable this to occur and folks will want to take advantage of it, why are we splitting when ownership occurs and when the city is going to take over operations and maintenance responsibilities. Why aren't they simultaneous? If it needs a three year shake down cruise then why do we want to own it for the three years. As a business proposition why do we want to take away from the contractor, the applicant or association that has built the sewer the ability to recapture costs that will be incurred during that three year maintenance period. Is this the best way to structure this to the advantage of both the city who is going to be owning something that will be full of holes for three years, or for the developer who is going to be incurring costs that can't be recovered.

**Mr. Magoon** doesn't think a three year time period is long enough to make a significant difference. In terms of the operations and maintenance of the city taking it over as long as the performance bond is in place and he agrees it should occur simultaneously and would think it ought to occur immediately. Once it is completed and operational and members of the public are utilizing that facility then there is a public interest in making sure that it functions.

**Ms. Lowe** stated the three years is arbitrary and there are plenty of good arguments to make for a shorter period than three years.

**Councilor Tobey** doesn't know if he would split the two events and doesn't know if we would want to own it until we were satisfied that the shake down cruise has happened.

**Mr. Parisi** stated if you look at construction there is always a maintenance or warranty period of some sort. We want to make sure that what the contractor put in the ground functions as it should and if not that they are liable for any repairs.

**Councilor Tobey** asked how long the period of warranty was on the Essex Avenue sewer.

**Mr. Parisi** replied one year.

**Councilor Hardy** referred to subdivisions and cluster developments and asked once the sewer is constructed will the city ever be responsible for it. She heard the answer as no but now she is hearing after three years the city will be responsible for it.

**Mr. Magoon** stated the city will be responsible for a privately constructed sewer that is becoming part of the public system. There are other situations where there is going to be set up a structure to maintain and operate that facility. There are a couple of those in the city currently proposed that would not become owned and operated by the city. They would remain owned and operated by the private company.

**Councilor Hardy** asked if that is because of conditions placed on the application to keep it separate.

**Mr. Magoon** replied yes.

*Section 6. Sewer Permits. A. General. It is incumbent upon the Applicant to apply for and obtain any necessary local, state and or federal permits and approvals prior to initiating a sewer extension.*

*B. MA DEP Sewer Extension Permit. The Applicant shall apply for a Commonwealth of Massachusetts Department of Environmental Protection (MA DEP) Sewer Extension Permit in accordance with DEP regulations. A completed permit, including payment for the appropriate City Administrative Fee for design review, shall be provided to the DPW Director or his/her designee for signature, prior to the Applicant submitting the permit to the state for approval. All plans shall be stamped by a Massachusetts Registered Professional Engineer. Any modifications to the City approved plans must be requested of the City in writing and written approval from the City received, prior to implementation.*

*C. Gloucester Sewer Permit: The Applicant or his/her agent must obtain a Sewer Permit from the City, after receiving the MA DEP Sewer Extension Permit, but prior to commencing construction. To obtain said permit, the Applicant shall provide the City with an approved DEP permit that includes the City approved construction drawings, specifications and an estimated cost of the project, including design, permitting, construction and legal costs, with appropriate back-up documentation, along with the 100% Performance Bond. Payment shall also be included for the appropriate City Administrative Fee for construction inspection.*

*Section 7. Construction Inspections.*

*A. General. The DPW Director or his designee shall inform the Applicant, upon submittal of the MA DEP sewer extension permit application, whether the City Engineering Department shall inspect the construction of the extension, or if a City selected engineering consultant shall be needed to provide full-time inspection and to certify that the construction of the project was completed in conformance with the approved construction documents. Typically, an extension for a single family home that includes not more than fifty feet of pipe, would be inspected by the Engineering Department, subject to approval by the DPW Director or his designee. Failure to adhere to the inspection and approval requirements stated herein may cause the City to require full-time inspection, as described below.*

*B. Inspection Notification If full-time inspection is not utilized, it is the responsibility of the Applicant to notify the City's Engineering Department as to the construction schedule and to keep the Engineering Department apprised of changes to that schedule. No trench shall be back-filled until the pipe laid therein has been inspected and approved by the Engineering Department after it is laid.*

*C. Scheduling Inspections. If full-time inspection is not utilized, the Applicant or authorized representative thereof shall arrange the work to require the service of an inspection in as short a time as practicable. Contractors must call the Engineering Department to request all sewer inspection. An inspector shall inspect the requested site in accordance with the following schedule:*

*i. Request by 10:00 AM that day for an inspection on Monday through Thursday, between 1:00 PM and 2:30 PM.*

*ii. Request by 2:30 PM on Thursday for an inspection on Friday between 8:30 AM and 12:30 PM*

*If the request for inspection comes in after the deadlines above, the site shall not be inspected until the next inspection period. If the inspector arrives to do an inspection and the contractor is not ready, there shall be a 24-hour wait before an inspector comes back to do the inspection. Proper trench plating shall be used whenever the trench excavation is not backfilled or unattended and when work has been stopped for the day.*

*D. Full-time Inspection of Sewer Construction. The DPW Director or his/her designee reserves the right to require full-time inspection and certification of the sewer construction. An extension of 50 feet or more which also provides connections to multiple homes or lots would require full time inspection during the construction of the project. The cost of the full time inspection shall be borne by the Applicant and said costs shall be included in the project cost estimate. The full-time inspector shall be from a Professional Engineering Consulting firm selected by the DPW Director or his/her designee. The City Engineering Department shall have a list of acceptable consultants on hand to perform the required scope of services. Any existing or previous relationship between the consulting engineer, the applicant and the City shall be disclosed. The Applicant shall be informed of the requirement to pay*



*for full-time inspection upon submittal of the MA DEP sewer extension permit application. The scope of services to be provided by said Full-time Inspector is attached to the regulations as Appendix B.*

**Councilor Tobey** asked how the City Engineer will select the consulting firms and is that list to be compiled through some statutory procurement process, and have you consulting with the Purchasing Agent.

**Mr. Knowlton** stated we have been advised by the Purchasing Agent that the contractual relationship should be between the applicant and the consultant and not the city so we avoid the issues of 30B. The consultants and professional engineers that we would provide to the applicant for selection would be based on our recent successful experience with consultants on similar type projects.

**Councilor Tobey** asked if that means the city would be vouching for their ability and credibility thereby creating an opportunity to derive something of value for their vouching.

**Ms. Lowe** stated all you would be doing is saying these people are qualified and you want the applicant to pick from a list of qualified people and that would be the extent of the relationship. You don't want a business relationship between the city and whoever you are listing as qualified to do the work.

### **Section 8. Ownership of a Private Sewer Extension**

*A. General. No connection shall be made to a sewer extension until the City assumes ownership of the extension and issues a written document to that effect to the Applicant.*

*B. Submittals Required Prior to City owning the extension. An Applicant must submit the following documents to the DPW Director or his/her designee for review and approval in order for the sewer extension to be owned by the City:*

*i. As built plans, on Mylar, stamped by a Massachusetts Registered Professional Engineer. As built plans shall show: plan and profile of the constructed sewer, profile shall show all utilities encountered during construction and any ledge removed as part of the work, swing ties to manholes, wye connections on the sewer main and end caps of service connections to property lines or stubs left for future extensions, and any other information requested by the DPW Director or his/her designee. As built information may be required in GPS format, in accordance with the City's current GPS standards (see Appendix C).*

*ii. All operation and maintenance manuals and warranties acquired on the project.*

*iii. Copies of necessary easements as recorded at the Essex South District Registry of Deeds or Land Court, as well as certification of compliance with any Order of Conditions issued for the project.*

*iv. Final, independently audited, costs of the project, with back-up documentation.*

*v. Proof of an escrow account or bond worth 25% of the final audited project cost, to be supervised by the City Treasurer for a period of 3 years.*

*vi. If any pump stations are being reviewed for acceptance, a report by an independent Professional Engineering Consultant, approved by the City and paid for by the Applicant, documenting that the pump station (1) has been tested in accordance with measures approved by the DPW Director or his/her designee and (2) has met the criteria for satisfactory performance in these tests.*

*C. Failure to Meet Satisfactory Performance Review. If upon reviewing the above submittals or inspection reports, the DPW Director or his/her designee determines that the project fails to meet satisfactory performance criteria or notes any deficiencies or problems with the submittals, s/he shall promptly notify the Applicant in writing and request revisions or correction. Failure by the applicant to correct such problems shall be grounds for the City to deny ownership of the extension. Failure by the applicant to respond to said notification may cause the City to utilize the 100% Performance Bond to resolve any issues.*

*D. Letter of Ownership. Upon satisfactory review of the above documents, including any required corrections, the DPW Director or his/her designee shall notify the Applicant in writing that the City accepts ownership of the extension. The notification shall release the 100% Performance Bond. The notification of assumption of ownership does not require the agreement of the Applicant to become effective. This notification shall be signed, dated and kept on file in the Engineering Department.*

**Councilor Tobey** referred to section vi, and stated you speak to the standards of measurement to determine if a pump station will be accepted and the criteria is currently stated as, "...in accordance with measures approved by the DPW Director." He asked if there is any existing norm in the industry that could be substituted so there is an objective standard.

**Mr. Knowlton** stated we could create an appendix for that so it is listed out. It is a good point.

**Section 14.9. Sewer User Charges** Upon connection to the sewer extension, every user shall pay sewer user charges as per Gloucester Code of Ordinances Sec. 23-19.

Councilor Tobey asked why is this in here?

Mr. Parisi stated they would be paying the sewer rate per usage.

**Councilor Tobey** asked why should we require the applicant to operate and maintain something that the city has assumed ownership of and who is liable for mishaps?

Section 10. Transfer of Operation and Maintenance Responsibility to City

*A. General. The City shall assume operation and maintenance responsibility of the extension when the City finds the construction to be complete and allows connection to be made to the public system and when the conditions contained in A. i-iv have been satisfied. No later than sixty (60) days before the end of the 3-year, 25% bond or escrow period, the Applicant must submit the following to the DPW Director or his/her designee:*

*i. All pertinent operation, maintenance and repair records including warranties;*

*ii. A list of all existing connections; A list of all potential connections;*

*iii. The Applicant shall be required to test the sewer line, to demonstrate its structural and operational capability. Such inspection and testing may include, but not be limited to, internal camera inspections, dye and smoke testing of the extension or connected properties for illicit connections, or other measures determined by the DPW Director or his/her designee. Upon direction by the DPW Director or his/her designee defects in the extension, or illicit connections to said extension, shall be fixed by the Applicant. Improvements to eliminate defects found may include the disconnection of illicit connections and or sump pumps, testing and sealing of leaking manholes and sewer pipes, including service connections, or replacement of defective pipe sections or manholes.*

*iv. Any other documentation required to demonstrate that the sewer extension is free from defects.*

*B. The City shall retain a 25% Bond for a period of three years for the purpose of applying towards failures or defects in construction. Such bonding will not be invalidated by any subsequent contiguous extensions or connections.*

Section 11. Extensions to a Sewer Extension

*A. General. Extensions to privately constructed sewer extensions may be allowed by the City.*

*B. Fees or Assessments to other Extensions. It is prohibited for a private sewer extension to charge any fees to another contiguous sewer extension. As the private sewer extension is built by the Applicant for the City all future extensions to the sewer extension must be constructed and administered in accordance with these regulations. Each application for an additional sewer extension shall be considered as a separate sewer extension. An existing Applicant may not charge any fees or assessments to a new Applicant.*

**Section 12. Penalties for Violation.** Pursuant to Massachusetts General Laws Chapter 83 Section 10, violation of these regulations is subject to a civil penalty of not more than five thousand dollars (\$5,000) per day.

**Councilor Tobey** asked Ms. Lowe if she is satisfied that the penalties for violation language would satisfy basic due process requirements. That there has been sufficient public involvement in the development of these standards and this is not too sweeping in its scope in assessing \$5,000 per day.

**Ms. Lowe** stated the city will not assess the \$5,000 penalties. M.G.L, Chapter 83, Section 10 or a subsequent section provides that enforcement of rules and if the city wants to look for a penalty, the city would have to go to superior court. So there is more than ample due process and that is a maximum penalty.

**Councilor Tobey** asked how the applicant shall assess the costs between and among the properties. Is that to be left to the private sector to determine or will you be putting it into the regulations.

**Mr. Magoon** stated in an effort to get something before the City Council for discussion, to begin that public debate and without satisfactory resolution to that difficult issue, we have not put forward a specific proposal but there are certainly a myriad of options.

**Councilor Grow** commented that was one of his big concerns at the last meeting. He stated at the very least any recoupment period for people that put in the sewer should be extended at least as long as the maintenance period. On one hand we are trying to allow private extensions to go forward but on the other hand we are taking away the ability for people to finance this by allowing people to opt out for period of time. There should be concurrency between the time they are responsible for the maintenance and the time allowed to recoup the costs.

**Mr. Magoon** stated that is certainly one option as an approach.

**Mr. Parisi** stated we are silent on that and it certainly could happen but it is a private negotiated situation. We are not proposing prohibiting any future extensions to an existing extension once it is in the ground.

**Councilor Grow** stated if we remain silent on it what happens when someone wants to hook in, do they do it for free. How does that work.

**Mr. Parisi** stated we propose with these regulations to give them a connection permit. **Councilor Grow** stated there is no incentive for people to do these sewers.

**Mr. Parisi** stated that is something that needs to be decided up front before going forward with the extension.

**Ms. Lowe** stated the other approach you could take rather than assisting the private applicant in collecting funds which is not a function of the city is to take a whole different approach and say you are not going to grant the initial permit unless the applicant shows they have signed on 75% of all possible connections. That might be more feasible and keep the city away from this issue of who is collecting money from whom, so people are being treated fairly. She would recommend people try more creative approaches.

**Councilor Destino** stated one thing he hasn't heard tonight is some way the city would have some kind of user fee that is tied into these private sewer connections. If someone wants to wait, why wouldn't the city impose a buy-in fee to tie into the sewer. We would want give these people the incentive to join earlier.

**Councilor Tobey** asked what the Board of Health standard is regarding failed septic systems; the time in which people must tie into that newly available sewer.

**Ms. Lowe** stated the Board of Health has authority under M.G.L., Chapter 83, Section 11 that if you have failed systems, they may order the person to connect immediately. We use to have in our code of ordinances that they had three years to connect when the sewer was in the street and then we amended that when we had the mess in North Gloucester and said if people could prove they had a functioning Title V system they could keep the time frame open.

**Councilor Tobey** wonders if that would provide a start to a time line to give people the opportunity to recoup the investment.

**Councilor Hardy** asked if any part of these regulations is different for STEP systems; is it exactly the same for STEP as it is for conventional sewers.

**Ms. Lowe** replied no, they are not the same. It is very different for STEP because a lot of the components that are part of a STEP system are located on the individual's private property and if it is done as part of public construction, then the city has to have easements in order to operate and maintain parts of those systems.

**Councilor Hardy** stated she feels it is wonderful that we are trying to make it easier for people to be able connect, but to that end she would also like to see some consideration given to doing an informational pamphlet so people will know what the steps are.

**Councilor Grow** stated he is still hung up on the idea that we are going to end up with situations where you are going to have one person on the street who is essentially funding and financing the entire extension because the neighbors are going to know if they just wait then they won't have to pay anything to get into it. He asked are we trying to figure out a way to accommodate the need to get sewers done where the city isn't going to be paying for them and yet we are not going to make any effort to facilitate recoupment of that investment for essentially city infrastructure.

**Ms. Lowe** stated a lot of the extensions we have seen are not one person coming forward. It tends to be a formal group of people who join together in a business type of relationship.

**Mr. Magoon** stated we have to be clear in terms of the city's interest in having the sewer constructed to begin with, plus the city's interest in the financial arrangements that come after that. We want to make sure things are

done in an equitable manner but we need to be careful in terms of getting involved in the midst of private financial relationships. There is no one answer without issues.

**Councilor Grow** agrees with not getting involved in financial arrangements between these groups. The city is served essentially by having private entities creating public infrastructure and yet we are not creating a means by which the people who take on that chore can recoup significant investment to get that infrastructure done. To essentially cut off from this moment forward any chance for recoupment of some of the cost doesn't seem like a great incentive to getting any of this done.

**Councilor Destino** used the example of 10 homes on a street putting in a \$200,000 sewer; \$20,000 for each person on the street and four houses on the street that don't want to tie in. Why couldn't the city say that after we accept this sewer we are going to charge \$24,000 to tie in to provide incentive for these people to tie in earlier. Is there justification for putting an escalator in to say if you tie in after the fact and we have to reopen that road your tie in fee will be more expensive.

**Mr. Magoon** stated there are a couple of issues with that. Who do those fees go to; there is a concern if they come into the city that it is paying debt that the city didn't incur.

**Councilor Destino** stated you can't justify that as opening up a road the city now owns.

**Councilor Grow** stated if we do a public project we charge a betterment to every connection along the way and he doesn't see how that is any different for private sewer extensions.

**Ms. Lowe** stated nobody is saying they are not entitled to that betterment. What we are saying is it doesn't need to be municipal system to assure that the builder gets to collect it.

**Councilor Grow** stated there is no mechanism to collect.

**Ms. Lowe** stated that is what we are asking some of you to come up with. She made the suggestion of having a defined percentage of participation or you don't get the permit. There are other communities that charge very substantial connection fees for people to connect after there has been private construction. If it is only for the connection you can't charge anymore than what the person is receiving and you can't tie that to something else. You have to demonstrate there is a certain cost the city bears and a certain value, so you can only go so high.

**Councilor Grow** stated perhaps the city should essentially buy the sewer by taking the cost of that into the city and then applying betterments to all the properties along that.

**Councilor Romeo** asked what happens if you just built a home and your septic system is fine and you don't want to connect because you don't have the \$20,000 to put up front.

**Councilor Destino** stated they wouldn't be assessed until they needed to tie in. We are trying to find a way to capture the folks who wait until the end and don't pay the full cost to tie in.

**Councilor Romeo** stated she doesn't mind a betterment. A lot of people are waiting to do this. She is concerned when something is privately owned and someone won't let someone connect else.

**Mr. Magoon** stated this proposal says when the sewer is complete and operational and whether it is immediately or after three years, the city would take over the facility and allow people to tie in. If you take over operation of the sewer and allow people to tie into it immediately, then you have eliminated the ability of the person who constructed the sewer to recoup costs from those people when they do tie in.

**Councilor Peckham** would like to hear some public input.

**Councilor Destino** asked public to speak to the merits of the issue and limited each speaker to three minutes.

## **PUBLIC COMMENT**

**Daniel Greenbaum, 318 Concord Street** commented on the quandary of how to deal with the people who are going to wait to tie in. Some things are only going to work with a public sewer and we shouldn't be thinking that private sewerage is the answer to all sewerage in Gloucester. The city has a lot more power than a private citizen. He thinks you are going to see either groups of families doing this because of failed systems or the private sector people who want to develop their land and are willing to take a loss on some people because they are going to make a huge gain on the sale of that property. Those are the situations you are going to have. There are limits to what you can do in a private situation. He hopes the Council supports the idea of fully bonding. It is not all that expensive to do and the city doesn't have a good track record of finishing projects where something goes wrong. The issue of owning it before you fully take maintenance responsibility is something to wrestle with a little bit. Could you have the same conditions you have for ownership and at that point release the performance bond and move into the maintenance bond and don't take ownership. He is concerned that once people start using the system and you find something seriously wrong, the city owns it and there is no recourse to getting it resolved. He doesn't know if there is a better way to deal with the betterments. This does seem to be a secret process and

he didn't hear anything on public notice. If there is a large private extension there is no process for notifying people. There is a private application to the city without any knowledge of this happening. If something is going to open up a large number of lots, then there should be broader public input.

**Councilor Grow** asked who the entity would be to conduct that process.

**Mr. Greenbaum** stated he isn't aware of the full the range of things the DPW Director does but these regulations are implemented by the DPW Director and the City Engineer and he would assume there would be some requirement of notification.

**Councilor Destino** stated he would think that the DPW Director, along with the Ward Councilor could call these meetings.

**Mr. Greenbaum** doesn't want to require a public hearing for every instance.

**Councilor Hardy** stated an abutters list might help in making notification.

**James Groves, Revere Street** stated the number one item that is very important is that the comprehensive sewer survey should be completed, evaluated by the city and publicly commented on long before we get into adopting these regulations by publication. There should be a period of time where we have an opportunity to digest the survey and evaluate it and be fully informed of what is going on in the city. Referring to existing and pending applications; he asked that they may not change from a connection application to an extension application to take advantage of the liberal aspects of this new sewer regulation verses the contractual responsibilities they have already proposed to accept under their existing application as part of their conditions to move forward with the existing application. There are some residual aspects of what is being proposed here tonight that should be looked at and taken into consideration.

**Stevan Goldan, 14 Hodgkins Street** stated calling something a private sewer really obscures what it really is.

Sewers are not private, they are public utilities. You are using a temporary construction, but nothing can be more public. A handful of people are making millions while the rest of us pay for the schools, etc. All this is obscured when you call it a private sewer line. This should go through all the safeguards because it is the most important decision in the city right now that a public sewer goes through. The City Council needs to do a couple of things. One is in obscuring a lot of details, all the power is given to the DPW Director and that doesn't happen with public sewers with good reason because we have elected officials that are accountable to the public. Something this important should be approved by the City Council. This is not an administrative decision; it is a political public policy decision. Along with that there are a couple of immediate things that the council needs to address; the definition of a sewer connection versus a sewer extension. Unfortunately here we see sewer extensions given automatically but as long as they are called extensions the city has discretion whether to grant them or not; that is not true with connections. This needs to go through the City Council, not through inside political influence. The other thing is excluding subdivisions from approval; if you are going to control land use in the city this is the worst thing. He did research on the Town of Franklin, and although there is going to be problems getting financial equity you are going to have to get special legislation to handle that but that isn't true of subdivisions if you keep approval by the City Council.

**James McKenna, Attorney 63 Middle Street** applauded the City Council and the administration for putting this forward. This is very necessary and timely and we can't put public health issues on hold. Time is of the essence that we go forward with these rules and regulations enabling these homeowners to get out of the position they are in. His feelings are that the City Council should adopt at least a preamble and if they are going to prevail over ordinances and other aspects of governments then the Council needs to say so. At the very minimum the preamble and the purpose of these regulations ought to be something the Council speaks to. Secondly, we want to make sewer projects viable but when you encumber them with so much it starts to erode that viability. He proposes that like the DEP that has major and minor project standards, that we consider major and minor project standards when we have minor projects. He would suggest a 5 lot, 500' minimum as a minor project. He would look to draw a threshold and provide for a simplified process to allow smaller projects to move forward. Third, we don't want to foreclose the opportunity for a developer to recover costs. We want these projects to go forward if it is in the best interest of the city. He agrees with the debate and would propose a 7 year obligation for people to have to pay back to the investment resource to put the pipe into the ground. Three years was a little soon because someone would wait if they don't have a need to immediately connect. Growth planning should be from a development perspective. You would require the developer to size the pipe and the infrastructure to meet that additional extension and if you don't provide an ability to recover that, that makes the project that more challenging. If you impose additional standards on the developer you ought to give the developer the opportunity to recover those costs.

**Richard Montgomery, 22 Woodman Street** stated the regulations are wonderful; they take a long view and the city is really looking to its' obligation. He agrees there has to be a mechanism for recouping costs. In the real world, he has 5 acres, 1000' from the Essex line; 2 acre zoned; it has wetlands on it and begs for a sewer extension. Right next to it is 50 acres undeveloped. From the way he reads this he needs his sewer extension to serve not only his two house development but also a possible 25 house development above him. He must build the 1000' extension not only for himself but for the benefit of this other land owner. There is no compelling reason for this land owner to step in and pay half the cost. This is a good start here and he thanked everyone for their good work but it is only half done until we figure out a way to share the cost. The idea of building sewer extensions for the benefit of the city really is a benefit because you get more houses and increase the tax base for city and use a large capital resource, the sewer system. This is not a problem for a large developer it is the people waiting for them to build it close enough to their property to tie in; it is all about money.

**Charles Crowley, 6 Everlith Road** stated it is his understanding that the city would own the sewer at the point of connection but during a three years period he would be required to hold a bond for maintenance of that extension. He feels it is unfair to ask someone to hold that bond up and for the city to have the power to allow someone to join in or further extend. It seems to him that you would be asking someone to hold a bond for some other contractor's work and to him that just doesn't seem right. If the city is going to grant someone to further extend then they should accept it and return the fee. The second issue is the problem of cost and how to allocate the cost. This is dealt with all the time with other public utilities. In Vermont when he ran a utility line down the road he was entitled to a prorata refund for any one who hooked up to that line for seven years. If his extension was 1000' fee and someone hooks up within 100' they pay 1/7<sup>th</sup> of the amount assessed per linear feet of the line. If someone hooks up in the 7<sup>th</sup> year then he gets 1/7<sup>th</sup> of that amount. He would encourage the Council to look into using this model. He assumes the Daylor Study is still in place and if that is the case. "If any portion of these regulations are inconsistent with other existing City of Gloucester ordinances or regulations relating to sewers, these regulations shall prevail." He feels you should put in a clarification to state you are not overriding Daylor, because the way he reads it you are. A question on minimum fees; the neighbor on the main road where the city has installed the sewer could be paying as much as \$20,000 for a fee, where his neighbor around the corner on a private extension could be paying as little as \$5000. There should be a minimum fee that should be imposed. It is very uncommon to suspend the existing rules so that nothing can happen. He went to Mr. Magoon about 1-1/2 year ago asking to run a single line to extend the sewer to accommodate an aging parent. It seems this is a great thing we are doing but it does seem unconscionable to say that during the time you are doing it you are throwing things away. If you allowed extensions under the current regulations, that would put the pressure on the Mayor, the administration, the DPW and the Council to come up with them quickly. Right now you are wasting everyone's time and he doesn't see anything happening.

**Edgar Kane, Salem Road** stated the issue of a proposed penalty to motivate connection to a system isn't going to motivate some people in his neighborhood at all. There about a dozen homes, perhaps seven systems have been upgraded by Title IV, out of the remaining five systems, four of those are occupied by people in their eighties and a fee of few thousand dollars will make them more resistant to hooking up. He asked that there be consideration of some type of arrangement for the elderly; because it wouldn't be effective to apply a penalty to motivate an elderly person to connect.

**Michael Faherty, 32 Highland Street** spoke as a private citizen. There is a fundamental difference between the city's ability to compel someone to join a system and a private citizen's ability to just ask. It is huge. When someone is participating in a private project they are putting up their own money, using cash. They are not borrowing money at municipal rates. They are not offering the ability to their neighbor to be able to pay it off over 20 years at 2%. There is a big difference when asking someone to come up with whole amount up front and then asking them to come up with double the amount for the purposes of satisfying what is perceived as municipal interest. He feels it is unfair. He takes exception with some things that were said tonight because he doesn't think they are true. It is not uncostly to require this bond. His experience is that most of the so-called bigger construction companies; those that bid exclusively municipal projects and are capable of being bonded have no interest in doing these types of projects. They don't have the right to keep doing change orders. They will be dealing with a homeowner's group and it is much more meticulous. It is slow work; it is small work and you are going to be dealing with performance bond issues. The issue mentioned by Councilor Romeo, about what if she has her property and she doesn't want to join. That points out the essential dichotomy between public and private, because no one can compel someone to join but when you talk about the municipal interest; that should be about preserving the whole concept of community and nothing will split the neighborhood more than if someone has

spent grossly more for a service that someone else hasn't paid for. The example used by Councilor Destino of 10 houses with a \$200,000 extension if only six people put up the money they are not putting up \$20,000 each, they are putting up \$33,000 each and if the person coming in after the fact is only required to put up \$20,000, there is still a delta of \$13,000 and in the real world, time is money. There needs to be procedures to address this. This is a principal issue. The notion of full time inspection services is another enormous cost that could be avoided with some alternatives. Lastly, Chapter 83, Section 10 says, "...a city, a town or a sewer district may adopt rules and regulations." This should come from the City Council. It needs more discussion and debate. You are not going to get it perfect but if it is in the form of an ordinance you can always go back and tweak it to make it work. You should be trying to facilitate the implementation of this program and in his opinion he doesn't feel this will be facilitated the way it stands now.

**Kathleen Hurlburt, 6 Causeway Street** asked if someone wants to put a private sewer in and it goes by her house does she has to pay for it even if she doesn't need a sewer. If the Demoulas sewer comes down Concord Street do we have to pay for it because Little River is no longer polluted, so we don't need a sewer on Concord Street.

**Mr. Magoon** replied no that is not what these regulations say. If that sewer project became a reality from that particular developer, then that developer would have an opportunity to approach those property owners and try to get their participation. The current regulations wouldn't require anyone to pay for a portion of that sewer other than those who agreed to participate in that project. Obviously, there is a lot of discussion about whether or not that is the appropriate way to go and we are looking at other options to get people to participate, but what is currently before us tonight in terms of a draft would not compel any of those property owners to participate.

**Ms. Hurlburt** stated it is a private sewer and they shouldn't have to. She asked if she put in a private sewer and the road is open would the city take the opportunity to upgrade old water pipes.

**Mr. Parisi** stated when we do a public sewer we try to incorporate upgrades but not necessarily with a private sewer extension.

**Ms. Hurlburt** stated a friend of hers got a building permit to make a two family out of her home to take care of an elderly relative; two years later she received a bill for \$5,000 for hooking up the second unit to the sewer. Nobody told her she would receive that bill when she got the building permit. She didn't hook up at the street; she hooked up inside the house. People who don't need the sewer shouldn't have it shoved down their throats and when there is no pollution going on in Little River, we should not be dumping our sewer into Gloucester Harbor. We think the trees and the environment can take care of the sewer on site and very soon down the road when we need to do sewers they can be done on site and we don't need these big major sewers. These regulations are being encouraged just to get municipal sewer and get money out of the people.

**Councilor Destino** asked the will of the Council. We are trying to weigh the point that we need to get this moving so we can start to accept applications with the fact that we have a number of sticking points from public process, thresholds for sizing pipes and inspections, models for charging and accepting applications and the Daylor Study. We can reconvene this group or refer this to a committee.

**Councilor Tobey** suggested three proposals. One that the administration resume the review process and do yet another set of revisions capturing all of the concerns, and ideas put forth and the points of revision that have already been acknowledged and that need to be made. Secondly, he urged the administration in the spirit of capturing process concerns that once those revisions are made that this matter be referred to the City Council for adoption as amendment to the city sewer use ordinance, where we could readily refer this to O&A. Third, he asked the administration to propose a schedule for a further workshop discussion that may lead to referral to committee as well.

**Mr. Magoon** stated in terms of preparing a revision based on things heard tonight, that makes sense and they can move forward with that. In terms of referring to Council for adoption, that is something the Mayor, Legal Counsel and he should talk about in terms of some of the issues raised tonight and he certainly wants to have that conversation. In terms of the third issue and other task force recommendations we can expedite that and get those before the Council in the near future. In terms of allowing extensions for existing single family lots, that has been put forward, advertised and has taken effect. It is an issue that we have moved forward and have adopted.

**Ms. Lowe** pointed out that at the last workshop there were repeated and serious concerns about single family properties connecting to the sewer. We did amend the rules so there is no moratorium to that situation and that was published in the newspaper on 9/13; so since that date single family homes are no longer subject to a moratorium and people can apply for extensions in those limited situations.



**Councilor Destino** speaks not for the Council but for himself that putting revisions forward to O&A would be the first step to digesting some of this information and whether or not it needs to be incorporated into the next revision. He feels a comprehensive sewer policy for this city belongs in an ordinance adopted by the City Council. He would hope the Mayor's office sees it that way as well and would put something forward for referral to O&A to continue this discussion in an expedient way. We have this so called moratorium in place and that being imposed by the DPW Director and City Engineer and he would ask why we can't move forward on some of these applications at this point in the short term.

**Ms. Lowe** stated the moratorium was put in place because it was recognized the prior rules had serious problems and you certainly wouldn't want to go from a situation with some rules to no rules, so you would keep the moratorium in place until you either had an ordinance or new rules to follow.

**Councilor Destino** is talking about sewer hookups that would fall under the threshold of minor.

**Councilor Peckham** mentioned the Western Avenue sewer project.

**Mr. Parisi** stated they would consider whether or not there is a category of major versus minor sewer projects. We do have some relief in these particular regulations for inspections on a smaller project and certainly have allowed the one lot projects to go forward but should we extend that to two, three or four?

**Councilor Destino** stated it makes sense that smaller minor projects should be able to put in an application and be heard. He would like to hear something from the administration on short term solutions.

**Councilor Grow** stated we have heard suggestions on how to tighten up what is before us tonight. He stated it is his understanding that the administration's position is the DPW Director has the authority to put these regulations in place. Could we effectively approve what we have in front of us with the modifications that come forward as a short term measure that we would codify as an ordinance with the final revisions. He does see the concern about accepting some projects under the old regulations but is wondering if there isn't a way to do this in a two-step process where we accept the DPW regulations and then move forward with ordinance that more clarifies what we are looking for long term.

**Councilor Destino** stated best case scenario, you are talking about another 50 or 60 days. There are presently a number of important issues before the Council, including special Council permits, the Harbor Plan, Tax Classification, and the Zoning Ordinance review and we want to keep this process moving.

**Councilor Grow** stated his concern is if we put this forward only as an ordinance that will delay the process and maybe there is a way to put a minor project cap in place right now that would go forward under these regulations or on a case by case basis.

**Councilor Romeo** doesn't want something rushed through and asked who is considered a minor project right now. This is the first process. If it goes to O&A maybe we can discuss publicly what we want to do for the smaller projects but right now you are saying go forward and we can't even decide what is a smaller project; the fact is right now we are all confused.

**Councilor Destino** stated before taking over this process by ordinance the discretion is with the DPW Director. His point is that with the DPW Director's discretion can he lift this moratorium and begin to accept common sense applications and would assume he would use his discretion on these smaller projects.

**Councilor Tobey** stated discretion will be trumped by the first hard frost. The construction season will be winding down to a close pretty soon. So if there is a handful of these with a real need that could be acted upon quickly that would make a lot of sense. He can't think of anything more critical to a community's future then whether and how you are going to extend its infrastructure. This is the forum where it belongs as a matter of public policy, so even if there is discretion under Chapter 83-10 for administrative action on a regulatory basis without involving the legislative body, and he doesn't accept that argument. Let us sidestep that fact and recognize there is a higher purpose of determining the future face of this community and as we consider a policy like this it should be an ordinance.

**Councilor McLeod** stated we need some type of agreement or an understanding with the administration that we can move forward with getting this into committee. If the administration is willing to take these initiatives and start moving forward on those while we finish out the fine tuning this ordinance, to give us a little more time while still addressing the needs of the infrastructure of this city.

**Councilor Destino** stated the Council will await the word from the administration on an understanding that this will be taken up with the Council and adopted by ordinance. He is concerned this will be an extensive amount of work. He believes the sewer ordinance in this city needs to be reworked to have a comprehensive plan and that we may need to look at a facilities plan and more resources to come to the correct way to proceed with sewers in



our city. We are looking for short term solutions with thresholds on projects and language to go forward to be referred to committee to begin the process of adopting these as an ordinance.

**Councilor Hardy** referred to page 8; scheduling of inspections, which specifically refers to days and times and asked that be worded to be a letter from the DPW office, so not to have to change the entire ordinance if those dates change.

**ADJOURNMENT:** The meeting adjourned at 9:50 p.m.

Respectfully submitted,

June Budrow  
Clerk of Committees

**CITY COUNCIL  
AND  
CITY COUNCIL STANDING COMMITTEE  
Ordinance & Administration  
Monday, August 6, 2007 – 7:00 p.m.  
Kyrouz Auditorium – City Hall**

**Attendance:** Councilor Bruce Tobey, Chairperson, Councilor Sefatia A. Romeo, Vice Chairperson, Councilor Gus Foote

**Also:** Councilors Walter Peckham, Mike McLeod, Jason Grow, Steve Magoon, Mike Hale, Joe Ciolino, Mary Jo Montagnino, J. Kermit Birchfield, Mary Ann McCormick, Stevan Goldin

**Absent:** Joe Parisi

**The meeting was called to order at 7:15 p.m. A full quorum of the City Council being present a City Council meeting was also called to order.**

**1. Private Sewer Extension Regulations and Ordinances.**

**Steve Magoon CAO** reviewed the revisions since the last O&A meeting on this. Mike Hale, Engineering has also made other editorial changes in order to clean up the document. We will incorporate those and then would like to request that both the regulations and ordinances go to public hearing. The following changes have been made to the regulations:

Page 5 - language has been deleted from the regulations and put into the ordinance.

Page 6 - 6A regarding construction inspections - there was concern that smaller projects not be subject to full time inspections.

Page 9 - added "for project maintenance".

Page 9 D - changed 100% performance bond to 25%.

**Councilor Tobey** asked what the ultimate burden a private developer would bear is and for how long; is it when the project is deemed complete or when the city becomes the owner.

**Mike Hale, Engineering** stated the city becomes the owner at the completion of construction.

**Mr. Magoon** stated the intent was to change the 100% bond to two 25% bonds - one a performance bond and the other a maintenance bond. The purpose of a performance bond is to have the ability to close up the project and make it safe if the builder defaults on completion and didn't need the full 100% bond requirement for that.

Page 11, Section 9 we added "Ownership".

**Councilor Tobey** stated that basically a lot of the micromanagement has been taken out of this.

**Mr. Magoon** stated we took the things that are clearly the responsibility of the city and put those in the ordinance.

**Councilor Tobey** stated you also removed any reference to who gets paid what and when from the regulations as well.

**Councilor Peckham** asked about the process for sewer extensions.

**Mr. Magoon** replied we need to adopt the facilities master plan and that would indicate where the city anticipates extensions to occur. The process is one of assuming it is consistent with the facilities master plan, DPW and Engineering.

**Councilor Tobey** added that public projects would be authorized by a bond.

**Councilor Foote** talked about helping others be able to connect into existing private extensions.

**Mr. Magoon** stated the cost of the project would be audited and submitted to the city for approval and a betterment cost would be paid back to the original constructor of the sewer. They could collect extension fees up to the cost of the project.

**Councilor Foote** stated now you have to pay the city to do this.

**Mr. Hale** stated that is not happening right now.

**Mr. Magoon** stated we have put in place a set of rules and regulations to make it clear that if someone extends sewer past your property that they would have to participate in that in order to hook in but at the same time shouldn't have to pay an exorbitant amount for that tie in. The constructor of the sewer may receive reimbursement for up to 10 years and it can be no more than the cost of the project - that is included in the ordinance.

**Councilor Romeo** asked what happened to the sewer project on Grapevine Road and why couldn't they collect and why couldn't the city collect.

**Mr. Hale** replied they collected for a number of years. The audited costs are in our office along with a number of correspondences. The city did not collect the money for that extension.

**Joe Ciolino, 28 High Popples Road** agreed with Councilor Romeo because he went through the same thing on High Popples and the last two people on the street never paid anything to tie in.

**Mr. Magoon** stated the rules and regulations we had in place in the past didn't clarify that situation nearly enough and we had situations where a private property owner collected from people and it wasn't regulated, as well as some situations where the city collected and other situations where nothing was collected at all.

**Mr. Magoon** then reviewed changes made to the Ordinance Ch. 23:

Sec. 23.16 C - 40% is an arbitrary amount but Mr. Magoon doesn't have an alternative to propose at this point.

Sec. 23.23 - 10 years is referred to in this section, which is unchanged.

Sec. 23.24 - Reference to the 25% or \$6,000 contribution is mentioned in this section. An alternative proposal will be discussed later in the meeting.

Sec. 23.25 - Fees and bonds - 100% to 25% performance bond (see bold type in the document for added language).

**There was discussion on the reasoning behind two 25% bonds (one for performance and one for operations and maintenance). The performance bond ends at the completion of construction and the maintenance bond begins from that point forward. Therefore, it was determined that there is one 25% bond (where one ends the other begins).**

**Stevan Goldin** stated this apparently goes into all the details of how a sewer is going to be built but asked is there anything in there that tells whether or not a sewer can be built and does the city still maintain discretion in that.

**Mr. Magoon** replied that is what the facilities master plan is all about. Major portions of the city aren't currently sewered and the intent of the plan is to identify appropriate locations and sizing of areas that we intend to sewer.

**Councilor Tobey** stated why we expand the sewer system

**Linda Lowe, General Counsel** stated the facilities master plan gives priority to certain parts of the city based on environmental concerns.

**Joe Ciolino** stated in his ward a conclave of houses with septic systems were all failed by the health department and they had two choices - to build new septic systems or invest in a private sewer system. He asked if there are any provisions in the ordinance for repair of the road surface after it is opened up to lay the sewer lines.

**Councilor Tobey** replied that the Council enacted a trench ordinance earlier this year.

**Councilor Foote** stated it seems like the person who goes into the sewer is going to pay and pay dearly.

**Councilor Grow** asked if the facilities master plan is skewed more toward public projects rather than private projects. Where do private extensions fall into this.

**Ms. Lowe** stated the facilities master plan tells you where and why to put sewer. If the city is going to back and permit private sewer construction it has to be on the bases of using a planning tool - you don't allow private construction just because someone wants it; it gives certain types of private construction certain priorities.

**Councilor Tobey** asked Mr. Magoon to speak to the issue of ownership.

**Mr. Magoon** stated from his perspective, once the project has been satisfactorily constructed and operating the city should take over ownership.

**Councilor Tobey** stated if construction and design were adequate there would be no need for the 25% performance bond.

**Mr. Magoon** stated again from his perspective, that a bond is put in place to make sure what has been engineered and designed is properly constructed and upon completion the city takes ownership with a 25% operations and maintenance bond that will last for three years.

**Mary Ann McCormick** suggested if the city takes ownership of the project that they first do inspections - she feels the maintenance bond should be dropped when the city assumes ownership.

**Mr. Magoon** stated there are portions of the sewer system that you aren't going to know if they are going to operate correctly until they have been in use for a period of time. As originally crafted - the idea was you build it, we inspect and you run it for 3 years and then the city takes ownership.

**Ms. Lowe** stated the performance bond is in effect during construction and no longer needed once the project is complete. The other bond goes back to the concern that we want to make sure the sewer is functioning properly. She suggested using another word in Section D other than "ownership". We want to make sure it is fully functioning before it is taken over by the city.

**Mr. Hale** stated one issue his office is dealing with is the payment of these bonds. We can't find a bonding company that will sell a maintenance bond for three years.

**Councilor Tobey** asked for a report from the DPW by the end of August.

**Councilor McLeod** stated whoever wants to construct this will first have to go to Engineering and get all their specs. The actual taking ownership of it when completed is very short and doesn't feel you can get a bond for that and he reiterated that the 25% performance bond and the 25% maintenance bond is one in the same.

**Mr. Hale** has never seen the city use a bond for a broken private sewer.

**Councilor Grow** referred to Section 23.25C and recommended striking all the bold face type. Our interest is to protect public interest and he feels we need a realistic time period for a maintenance bond.

**Councilor Tobey** stated the 25% maintenance bond is contemplated to be posted prior to the city establishing ownership. Therefore, there is a period where there are two bonds in place and we need to clearly identify the points in time that it triggers or considers fully redundancies in coverage.

**Ms. McCormick** stated right now the period of ownership is five years and if someone wants to connect in, the constructors of the sewer should be able to collect.

**Kermit Birchfield, 33 Way Road** suggested taking a look at some alternatives, such as imposing betterments if there was a fault in the system. He feels you are going to have a hard time getting a maintenance bond. It is not an escrow it is a taking - you have to spend the money.

**Ms. Lowe** stated you could do an escrow for a small project; then you would get your money back.

**Mr. Birchfield** stated you have to run that against the cost of a bond.

**Mr. Magoon** stated the whole idea of a bond is to have that in place if there is a problem.

**Ms. Lowe** betterment has a strict meaning in the law and you cannot use that special provision.

**Mr. Birchfield** suggested a waiver by the individual to the city stating it would be acceptable to come back on a basis that would work.

**Councilor Grow** asked that we take a look at section D and find out what is practical, affordable and reasonable.

**Councilor Tobey** would like C and D reviewed one more time.

**Mr. Hale** stated it appears to be difficult to get these bonds and the reality is that the bond cost more than the project.

**Mr. Ciolino** stated there are two types of private sewer projects, the gravity system and the pressurized system with grinder pumps. There are not a lot of mechanical parts to a gravity system and if there is a gravity project that would involve a pumping station no private group would attempt something like that.

**Mr. Magoon** continued his review of the ordinance.

Sec. 23-25 F explains the distinction between connections and extensions removing the word "profit".

**Councilor Grow** asked if initial applicants would not be assessed a connection fee for that.

**Ms. Lowe** commends Steve for drafting this but noted that it is fraught with many problems and she is not sure it can be carried out because we need to be a partner with those trying to carry out these projects.

**Councilor Tobey** commends Steve as well but thinks a subset of the group has to sit down and do this work.

**Councilor Grow** asked if we could have a standardized terminology for someone connecting to the sewer. He would like to get back to the arbitrary fee and that a fee be consistent regardless.

**Councilor Tobey** added similar to what we did with Rockport/Essex.

**Councilor Grow** stated like buying a share of that sewer connection.

**Ms. Lowe** stated the cap is 40%.

**Councilor Tobey** asked this go back for revisions to bring back in September.

**Mr. Hale** stated there are a lot of inconsistencies in terminology and provided a copy of the state terminology on private sewer regulations. (*copy in file*)

**Councilor Foote** agreed there should only be one 25% bond and that there is no one to oversee it.

## **2. Sewer Betterment Proposal.**

**Mr. Magoon** stated a significant concern of the sewer task force is the cost associated with sewer projects and the payment for that. There is a city provision that allows for 25% or up to \$6,000 to be applied to the betterment related to city constructed sewer projects and there are significant constraints on our ability to take on additional debt and concern that the city would not be able to continue to take on that portion of the debt burden. Wall Streets also has concerns with that policy and based on those things the sewer task force recommended the Mayor put forth a policy change to eliminate that provision from the ordinance.

**Councilor Foote** asked what happen to making it equal for everyone.

**Ms. Lowe** stated there has always been the 25% but more recently added was the \$6,000 cap on that.

**Councilor McLeod** personally received the advantage of that and has talked to people that feel you should do the same for everyone.

**Councilor Grow** agrees with the issue of fairness but stated the economics of our community are not the same as they were 15 years ago and if we are not going to be able to go forward with projects, he is not sure that is a sensible way to move forward.

**Councilor Peckham** has particular concerns as the Ward V Councilor. Our sewers could now cost up to \$40,000 and he feels it doesn't seem fair that Ward V should be paying the highest.

**Councilor Grow** stated it is whether or not we can afford this policy and whether it is holding up projects in the city.

**Councilor Tobey** requested a carefully considered analysis from Anna Tenaglia, CFO on what that pattern is going to be over the next 10 to 15 years out of the city's general fund arising for the betterment system in place. SRF allocations that are based on a point system could produce some middle ground that reflects space opening up in the general fund based on existing amortization and the fact that some projects based on a reasonable and objective point systems being mandated because of the impact on environmental consideration. The philosophical premise of the 25% or the \$6,000 cap was so that we all share in the benefit to the community and could we find some middle ground so that some projects would be eligible on an objective basis for betterment assistance and others wouldn't and therefore folks could make a conscious decision about betterment assistance.

**Councilor Grow** stated the facilities master plan prioritizes projects.

**Ms. Lowe** stated we still want public projects but can't subsidize them in any way. If we get a good facilities plan then we can take those projects and plug them in. It may even require a special act.

**Councilor Romeo** spoke on mandates verses optional projects. She asked if your septic system is fine - do you have to connect to the sewer if it goes by your house.

**Ms. Lowe** stated you never have to connect if you have an approved Title V system you just have to maintain it.

**Mr. Birchfield** does not have an objection to the staggered amount but does have an objection to how long this is taking.

**Ms. McCormick** stated houses cannot be sold and systems haven't been fixed.

**Mr. Birchfield** stated we have 20 houses ready to go.

**Ms. McCormick** stated 16 out of 21 houses want the sewer.

**Ms. Lowe** stated if they are not up to code, you have a case where the board of health would order them to connect.

**Mr. Birchfield** stated there are two time constraints - one if for the golf course.

**Ms. McCormick** stated we have a written easement and until this is resolved the health department is not pushing.

**Mr. Ciolino** stated we can't wait any longer for this thing. It isn't environmental but it is top priority.

**Councilor Tobey** asked if the administration would be amenable to this kind of change in approach.

**Mr. Magoon** stated we need to look at it in the full realm and realize what the intending consequences of those criteria might be.

**Ms. Lowe** can draft this but that doesn't mean it is 100% done.

**Councilor Tobey** asked that this be revisited no later than early September.

**Councilor Grow** asked if there is a provision in the ordinance that a group could voluntarily waive the 25%.

**Ms. Lowe** stated all ideas are good but have to be based on a stated law.

**Councilor Peckham** stated there are 300 homes in his area that have failed.

**Councilor Tobey** asked Linda to write something with confidence.

**Councilor Grow** asked if a point system is subject to challenge.

**Mr. Birchfield** stated if you did a private system, he is reasonably confident that the number of participants would fall out because of the upfront costs.

**Councilor Tobey** asked for a final edit on the private sewer regulations/ordinances and betterment proposal and if you can move Way/Page Roads forward with the water based on the analysis.

**The private sewer regulations/ordinances and sewer betterment proposal are continued to 9/10<sup>th</sup>.**

**It was moved and seconded to adjourn the meeting at 9:15 p.m.**

Respectfully submitted,

June Budrow

Clerk of Committees

**CITY COUNCIL  
AND  
CITY COUNCIL STANDING COMMITTEE  
Ordinance & Administration  
Monday, September 24, 2007 – 7:30 p.m.  
Third Floor Conference Room – City Hall**

**a. Private Sewer Extension Regulations and Ordinances**

**Steve Magoon** summarized the changes made to the two documents since the last meeting. Mike Hale has made general clarifications and language changes that made the document read much better. The bonding requirements and how that related to when the city would take ownership of the facility was the primary issue. He referred to page 6 bonding requirements and noted the following changes: Bond of 100% was changed to "...25% of final audited project cost for project maintenance, to be supervised by the City Treasurer for a period of 18 months." They also provided some amendments to provide flexibility for the City Engineer to lessen that requirement on smaller projects if need be.

**Councilor Tobey** asked if there is a comfortable level that this is a bond that can be had.

**Mike Hale, City Engineer** replied this still allows the flexibility of a simple escrow account or passbook to be put in the city's name. He is comfortable with the 18 months; it more mirrors what the city does itself and with proper inspection there shouldn't be a significant failure rate.

**J. Kermit Birchfield, 33 Way Road** asked Linda Lowe if she had a chance to review this.

**Ms. Lowe** replied yes, we all discussed the changes and she feels it is improved. It is still a difficult area to regulate but hopes it is workable.

**Councilor Romeo** asked what Ms. Lowe finds not workable.

**Ms. Lowe** replied just from past experience it has been difficult. She would like to see it carried out to see whether or not it is going to be feasible for projects. It is creative but is fraught with obstacles. We have a good engineering department but they are very overworked. If we keep that department adequately staffed to carry out this oversight it should work.

**Mr. Magoon** stated a concern is that this ordinance allows private citizens to construct a portion of the city's infrastructure.

**Ms. Lowe** agreed that is the larger issue. There is no easy model to follow; we are trying to create our own and have improved.

**Councilor Romeo** stated the key is to have an adequate staff.

**Councilor Tobey** would like to see this go to public hearing to get this up and running.

**Mr. Magoon** referred to the other aspect of the betterments. In Chapter 23, Utilities we talked about the 25% or up to \$6,000 reimbursement of betterment expenditure. This version of the ordinance on the table tonight takes that out.

**Councilor Tobey** suggested moving the private sewer piece forward, leaving the betterment proposal unchanged.

**MOTION: On motion of Councilor Romeo, seconded by Councilor Foote the Ordinances and Administration Committee voted 3 in favor, 0 opposed to recommend to the full City Council to AMEND the Rules and Regulations**

**Pertaining to the Acceptance of Private Sewers and Gloucester Code of Ordinances, Chapter 23, entitled “Utilities” as written and further TO ADVERTISE FOR PUBLIC HEARING.**

**b. Betterment proposal**

**Linda Lowe, General Counsel** stated she read all the pertinent state law on betterments and noted that is area in Massachusetts that is strictly governed by state law; unless you petition for a special act you must go by state law. Regarding the assessment of betterments, (MGL Ch. 83), the statute sets out two or three particular methods. The unit method is in our ordinance and follows state law. No where in there does it suggest you can have flexibility. Early on we only had a sewer policy until the early 90’s when it went in as an ordinance. It is better to have it in the ordinances to have it standardized and formalized, but we did it for a long time by sewer betterment policies.

**Councilor Tobey** spoke to doing projects on an ad hoc basis.

**Ms. Lowe** replied one project at a time is what we use to do back in the late 80’s before we had an ordinance.

**Councilor Tobey** referred to the Sam Park project and noted large users that tie in with new flows be required to make some sort of acquisition of equity and money could be put into a reserve for future projects. He asked the Administration and General Counsel to draft a compensatory sewer ordinance and maybe then we could craft a linkage using the betterment policy and a new funding source.

**Ms. Lowe** replied it doesn’t take into account the size of a project – that is where the betterment confusion comes in. You can’t better a development when it abuts an existing sewer. You have to define what you are looking for; an equitable system or a case by case basis. There are models to look at in other communities.

**Councilor Tobey** asked if the committee could get the first review of a draft this calendar year.

**The discussion on Betterments was continued to 11/19/07.**

**CITY COUNCIL  
AND  
CITY COUNCIL STANDING COMMITTEE  
Special Ordinance & Administration  
Thursday, November 8, 2007 – 6:00 p.m.  
Third Floor Conference Room – City Hall**

**Attendance:** Councilor Bruce Tobey, Chairperson, Councilor Sefatia A. Romeo, Vice Chairperson

**Also:** Steve Magoon, Joe Parisi, Linda Lowe, Mary Ann McCormick, Councilor Elect Devlin, Mary Jo Montagnino

**Absent:** Councilor Gus Foote

**The meeting was called to order at 6:15 p.m.**

**2. Way Road/ Page Street Infrastructure Issues (cont from 10/23/07)**

**Way Road/Page Street infrastructure issues continued to 11/29/07.**

**3. Betterment proposal. (cont. from 9/24/07)**

**Steve Magoon, CAO** stated in order for the city to be able to provide a contribution, the city should be in a situation to afford it; that it is a project not being put forward as optional as opposed to a real sewer issue; that it is consistent with the facilities master plan; and is mandated by the state of federal government.

**Councilor Romeo** asked what we are doing with West Gloucester.

**Mr. Magoon** stated it is not a federal or state mandate that we provide sewer to West Gloucester. Unless we got to a position where we were under all four of those conditions we wouldn’t be providing the city contribution.

**Councilor Romeo** asked for an explanation of why and how a city would make a contribution.

**Linda Lowe, General Counsel** stated A-D is treated as a check list and all must be true.

**Councilor Romeo** asked that be restated under D.

**Mr. Magoon** agreed to amend the language in the last paragraph to insert “if A through D are met then...”

**Councilor Tobey** asked for the current percentage of the general fund dedicated to debt service.

**Mr. Magoon** replied currently it is about 10% (\$9 million). In talking to bond rating agencies that is a concern and this provides a good objective measure.

**Councilor Tobey** stated it has been suggested that under C. "...environmental benefits..." is redundant because it is assumed by D and would be subsumed by D. It would have to be prefaced on a finding that there was a clear environmental problem that could only be remedied by sewer.

**Mr. Magoon** would assume if D were in effect that C would have been part and parcel of that. He noted that Attorney Lowe raised the issued that there may be some situations where that may not be the case.

**Attorney Lowe** feels C should stay in there. Assuming when you have state and federal orders it won't always be because it is resolving neighborhood septic systems; there may be broader environmental concerns.

**Councilor Tobey** stated it catches the concept that sewers are not a right but a remedy.

**Mary Jo Montagnino, Way Road** stated in terms of A the percentage is now around 10%. She asked how long it has been since we have been beyond 8% and is that a foreseeable goal.

**Mr. Magoon** replied he feels it is foreseeable but since he has been dealing with the budget it hasn't been at 8%. It is a good objective measure and he noted that within local governments' debt service and the ability to borrow for capital projects can vary substantially.

**MOTION: On motion of Councilor Tobey, seconded by Councilor Romeo the Ordinances and Administration Committee voted 2 in favor, 0 opposed to recommend to the full City Council to AMEND Chapter 23, "Utilities", Section 23-24(a)(1), entitled "Sewer Betterment assessments" of the Gloucester Code of Ordinances by DELETING existing language (full text in Clerks office) and ADDING the following language:**

**The City Council shall only approve sewer betterments with a City contribution if all the following conditions have been met:**

- A. The City's debt service expenditures, as documented to the City Council by the City Treasurer, do not exceed 8% of its general fund revenue as indicated in the currently adopted budget.**
- B. The project is consistent with the City's Facilities Master Plan as adopted by the City Council.**
- C. The project provides a clear environmental benefit and resolves existing neighborhood-wide failed septic systems which have no other feasible resolution.**
- D. The project is required under a State or Federal Mandate through administrative or court action.**

**If A through D are met a City contribution is to be made, pursuant to MGL c. 83, §18 and §23, the City share shall not exceed 25% of the total project costs up to and not to exceed the value of \$6,000 per residential dwelling unit and FURTHER TO ADVERTISE FOR PUBLIC HEARING.**

**It was moved and seconded to adjourn the meeting at 6:35 p.m.**

Respectfully submitted,

June Budrow  
Clerk of Committees

**City Council**  
**Tuesday, October 30, 2007 – 7 p.m.**  
**Kyrouz Auditorium, City Hall**

**Public Hearing #5**

**Rules and Regulations pertaining to the Acceptance of Private Sewers**

**The public hearing is opened.**

**Speaking in favor.** Steve Magoon, CAO stated there are three pieces pertaining to the acceptance of privately constructed sewers, the regulations, the ordinance and the city's contribution to the betterment which is not part of tonight's discussion. This document indicates that has been eliminated and will be taken up separately. This is specifically a series of amendments to the ordinance, specifically related to the private construction of sewers. He



reviewed the specific amendments. (*copy in file*). The betterment section 23-24 will be brought back before O&A at their next meeting of 11-8. There has been a significant amount of discussion at both O&A and the Council level on what was appropriate to put into the ordinance and it was determined that more of the financial considerations were to be provided within the ordinance. There was a lot of discussion about the time frame and fees and assessments and the fact that if there were to be further extensions beyond what was approved that would be considered a separate application. The applicant would be able to recoup some of the cost of the project for up to 10 years by collecting fees from those who want to connect in after the project is completed but the applicant cannot benefit beyond the cost they incurred for putting in the sewer. We are proposing a 25% performance bond. The only other change to the ordinance has to do with some of the definitions to make those consistent with our sewer regulations and state provisions.

**Speaking in opposition. Stevan Goldin, 14 Hodgkins Street** has followed discussions on this the last year or two and noted that Linda Lowe seems to be on top of this and made two particular significant comments; these are privately constructed sewers, not private sewers. After a few years of construction these are taken over by the city. This is the most public issue we have – yet this ordinance is the most dangerous thing he has seen gone before the Council. All we see in this ordinance is the details – not whether these sewers should be built or not and because of that the City Council is giving away control over this. There is no requirement for a public hearing; there is no transparency. Again, this will lead to tremendous financial inequity. He feels the quality of the city will be devoured everywhere the sewer goes. Another evasion is the prevailing wage. When you make it privately constructed all the union wage laws don't apply. There are five streets that are already built up and need the sewer system and these should be allowed to connect in, but don't give away all the Council powers. There is also no requirement for a public facilities study and the Daylor study has been assumed to be a proper land use study. Open space and provisions for preserving other areas in West Gloucester has been totally ignored and he asked this be sent back for provisions to include the important issues, not the details.

**Christine Rasmussen, 82 Woodward Avenue** is speaking in opposition to passing this tonight in its entirety as there is confusion on what this ordinance is and is not. She was unable to find this ordinance on line and thinks this is a critical issue for a number of areas. She knows there are people that need sewers but asked before the whole ordinance is adopted that discussion of the facilities plan take place. She would like the neighbors to have assurance of a land use study. At this point before we try to bring in another private sewer ordinance, there is enough concern that particularly in Ward V there needs to be a public discussion and she asked the Council to consider that.

**Kathy Hurlburt, 6 Causeway Street** spoke in opposition. She would too like to hold off until the people in Gloucester can be informed of this.

**A five minute recess was called at 9:50 p.m.**

**The meeting reconvened at 9:55 p.m.**

**Rebuttal. Steve Magoon, CAO** spoke to comments made about giving away control to private entities. The intent of the provision is about how the facility gets construction and will make sure the control of where sewers are placed in the ground is clearly within that. Also if the concern is that we need to make the facilities management plan more explicit within the regulations, he doesn't have a problem with that. These are the provisions for the privately constructed sewers – the proposal doesn't change the decision making role of where sewers are placed.

**Mr. Goldin** stated you can't avoid the fact that if you pass this ordinance without writing the authority of whether or not these things can be built - you can't put the cart before the horse – this needs to be sent back to retain the public authority and to decide whether or not a sewer gets built, otherwise people will have it by right.

**Communications. None.**

**Questions. Councilor Tobey** hopes this will be continued so the proposals will be on line and the expressed statutory changes are before us. He asked Linda Lowe to explain the general legal framework within which we are operating and how the rules and regulations and the ordinance will interact to protect the public process.



**Attorney Lowe** stated this has been a very lengthy review process and in her opinion, the matter has been exhaustively discussed. She referred to the statutory requirements under MGL, Ch. 83, Sec. 10 which gives rule making authority to the municipalities through sewer commissioners and in the city that is the DPW Director. We have had sewer regulations of one kind or another for decades. We have step regulations on how to install etc. and since 2000 we have had regulations relating to the construction of private sewers. A moratorium was placed on any more private extensions of sewers and that brought us to where we are today. She referred to the amendments to Ch. 23 and noted a process already existed – this doesn't create something that hasn't been in place for a while but what it does is it scrutinizes this more and provides oversight by the Council. The betterments are completely separate from the privately constructed sewers, as they should be.

**Councilor Grow** referred to the section relating to the buy in of privately constructed sewers - abutting neighbors are allowed to buy into the project by paying an entrance fee and there is a provision in the privately constructed process to allow the applicant to recoup some of the costs of carrying the project for 10 years. If someone doesn't buy into it until the 10<sup>th</sup> year that has be factored in and he asked if there is an escalator built into that.

**Mr. Magoon** agreed and stated he believes there is an escalator based on the CPI.

**Councilor Peckham** stated this is such a huge issue for the people in Ward V and again the people need the information to know exactly what is in this, so that communication is completely clear.

**MOTION: On motion of Councilor Peckham, seconded by Councilor Hardy the City Council voted 9 in favor, 0 opposed to continue the public hearing to amend the Ordinance pertaining to the Acceptance of Privately Constructed Sewers to 11/13/07.**

**Councilor Tobey** asked the Administration to promptly get the amendment language up on the website so the information does get out.

**Councilor Peckham** asked to be notified directly, so he can get all the information out to his constituents.

**Councilor Hardy** asked how the advertisement affects people waiting for applications.

**Council President Destino** replied they are not taking any applications.

**The public hearing is continued to 11/13.**

## **CITY COUNCIL**

**Tuesday, November 13, 2007 – 7:00 p.m.**

**Kyrouz Auditorium – City Hall**

### **Public Hearing #2**

Rules and Regulations pertaining to the Acceptance of Private Sewers (*Cont from 10/30/2007*)

**The public hearing is opened and continued to 11/27/07.**

## **CITY COUNCIL**

**Tuesday, November 27, 2007 – 7:00 p.m.**

**Kyrouz Auditorium – City Hall**

### **Public Hearing #3**

Rules and Regulations pertaining to the Acceptance of Private Sewers (*Continued from 11/13/2007*)

**The public hearing is opened.**

**Speaking in favor.** Steve Magoon, CAO gave a brief overview of the proposed amendments to the private sewer ordinance (*copy in file*).

**Speaking in opposition.** Stevan Goldin, 14 Hodgkins Street with regards to the legal constraints of state law and separation of powers. The state places no constraints on cities and towns with

regards sewer extensions. This ordinance would give private parties the right to initiate and build public sewers; it is giving up the city's power 100%. There is no power or standards given to deny a permit. The most sensitive areas in the city are around Ravenswood and developers are going through preliminaries to develop land. The city has ignored the recommendation of its consultants. A sewer connection is defined as a single connection to a building. He feels this sets a terrible precedent and it should be changed. Private sewer extensions should not be allowed and we should at least put this off until the new Mayor can review it.

**Michael Faherty, speaking as a private citizen** commented on the recommended changes. He referred to Sec. 23-16 p. 2 ( c ) second to last sentence... "In addition, regardless of whether or not a subdivision is involved, any applicant for a privately constructed sewer extension permit, shall at the time such sewer extension is completed, pay such privilege fee and the fee shall be determined by the DPW Director or the Director's designee and shall not exceed 40% of the betterment for the most recent city project. What you are essentially saying is if privately constructed we are going to charge an additional fee (privilege fee) and tying it to something that has no rational relationship with what extra cost or long term effect that has on the city. If publicly constructed there is a betterment – if privately constructed, in addition to all the other expenses of actually of having to build it, you are charging a privilege fee. There needs to be a better way to figure out what the privilege fee might be. He then referred to top of page 2, Sec. 23-16 where you are talking about obtaining easements from the property owner. The city shouldn't be operating on private property and should only accept responsibility to the property line. He then referred to Section 23-23; a compensatory privilege fee is supposed to be equal to the amount of money that would have been gained by betterments. He feels it should have been two more than what was originally assessed as a full betterment. The last line..."a portion of the sewer privilege fee shall bear interest at the same rate charged for the most recent city sewer project betterments. His impression was that privilege fees were being paid and you weren't allowed to better those, so how do they bear interest. He feels the privilege fee should be a lump sum payment. He referred to Section 23-24(a)(1) talks about the revenue generated by said betterment assessment shall cover the total betterment cost as defined in 23-24(b)(1) – there is no definition of total project cost. We really need to define what the total project cost is. He referenced the same paragraph 23-24(b)(1) "...revenue generated by said betterment shall be equal to or cover the total cost.... less the city share." That makes the presumption that there is a city share and that should be corrected.

**Council President Destino** stated it was explained that the betterments were not part of this and would be discussed at a separate meeting.

**Attorney Faherty** referred to Section 23-24(b) and stated residential condo complexes shall be assessed one sewer unit for each dwelling unit. He noted that condominiums is a form of ownership and has nothing to do with the uses. He can't understand the formula presented in subparagraph 6, last line. He does agree with the reduction from 100% performance bond requirement to 25% as noted in Section 23-25 but feels it doesn't give any credit for construction already done. There is also no procedure on who makes the determination if there has been a failure, a failure to complete or a problem with the project. The bond will usually be in the form of cash and there has to be some type of procedure noticed to the applicant that at least gives him time to fix something without the city just accessing the money. He referred to paragraph (d) "... it is prohibited for a privately constructed sewer extension to charge any fees to another contiguous private constructed sewer extension." It is the owner or the applicant for the extension charging the fees. What is contiguous to a pipe – he doesn't agree with that concept. The next paragraph (1) talks about a number of potential connections. He asked are side streets are measured as potential connections that can be recovered from or not. Paragraph 4, "...the applicant shall not profit from the collection of entrance fees.... If the actual cost of the project exceeds the maximum guaranteed cost, applicant agrees to pay for its own funds, all amounts in excess of the maximum guaranteed cost." In a private development, unlike the city, the applicant is going to have to finish the project and do that. He feels it reads that you cannot recover 100% of the costs from the initial investors because you have exceeded the maximum guaranteed cost. No one is going to give a guaranteed cost; the applicant is not bearing all of that and would not be able to readjust the cost at the end of the project, so it is unclear. At the end of that page, "...applicant to charge and collect entrance fees shall terminate upon the expiration of 10 years from the date of construction of the project is substantially completed. Under this agreement substantial completion shall constitute approval for use by the city and its engineering consultants, or at a point in time when applicant has recouped 100% of the project costs, whichever is sooner." Privately constructed sewer extensions have

always collected 100% of the costs from the initial investors but the way this is worded says they would be shut off from collecting after that. There is a reference in paragraph 6 talks about execution of this agreement. There is no other reference to the word agreement anywhere in these regulations. The only other comment on privately constructed sewer extensions is with regards to the city's assumption of ownership. "A privately constructed sewer extension is accepted when the DPW Director or its designee declares in writing that the construction is complete and the extension is suitable for use and able to receive waste water from users." You have to make it clear that acceptance in that regard assumes the city is now accepting the full responsibility for the maintenance and repair. It can't be declared eligible for use and accepted at the same time. He spoke in support of the ordinance as a huge step in the right direction, but he doesn't believe you will get many private sewer construction projects coming forward under these regulations, unless there is the ability to recover substantially more amount of money than is being allowed.

#### **Communications.**

**Rebuttal.** **Linda Lowe, General Counsel** rebutted remarks made by Mr. Goldin. She noted she is neither a proponent nor opponent to this. She explained that the City of Gloucester is about to have a facilities master plan and once received the council will review and legislatively adopt it, even though privately constructed they are still publicly owned. We also have the Daylor Plan that strictly controls development in West Gloucester.

**Stevan Goldin** stated that confirms what he said, that this should not be heard until the facilities plan is ready.

**Questions.** **Councilor Tobey** asked if we currently have a privately constructed sewer regulation in effect.

**Attorney Lowe** replied yes, first enacted in February of 2000, as allowed under state law and we have been trying to improve it for over a year now because it is problematic.

**Councilor Tobey** asked who has the authority to act in the city.

**Attorney Lowe** replied the DPW Director.

**Councilor Tobey** asked has that been litigated.

**Attorney Lowe** stated the rules and regulations under M.G.L. Ch. 83, Sec. 10 have been thoroughly vetted over the last year and one-half but still would be promulgated.

**Councilor Tobey** stated the ordinance allows the council under the Charter to regulate fees, to partner, and make sure there are constraints in place.

**Attorney Lowe** stated we have tried to have some sharing of authority where it seems appropriate. A lot of work has gone into this and the ordinance is accompanied by a rewrite of the rules and regulations and as part of that process we have pulled certain sections and put it into the ordinance.

**Councilor Tobey** stated this ordinance is also accompanied by a rewrite of the rules and regulations.

**Attorney Lowe** replied yes, the rules and regulations were discussed in several forms with the council over the last two years and as part of that process we pulled certain of those and put them into the ordinance.

**Councilor Tobey** asked have the revised regulations been promulgated as of yet.

**Attorney Lowe** replied no, they haven't been published and they are not promulgated until they are published.

**Councilor Tobey** stated the theory is at that point the administration would promulgate the regulations and at that time can someone decide to build a sewer anywhere or are there controls.

**Attorney Lowe** stated there are a number of controls, the two most obvious are the controls for most of Ward 5, the most environmentally sensitive areas in Gloucester, including the ACEC and finishing up a sewer plan for the entire city. Whoever should proceed to build a sewer will have to do it within the parameters of that plan. The plan is environmentally based which was one of the purposes of the plan.

**Councilor Tobey** stated we are discussing tonight Section 23-16, dealing with easements and privilege fees, Section 23-18, dealing with considerations dealing with plans, Section 23-25, dealing with fees and bonds, and Section 23-35, dealing with definitional terms. Other than that the balance of the ordinance is off the table as far as tonight's review is concerned.

**Attorney Lowe** replied yes, we broke out the betterment provisions so they could be treated on their own.

**Councilor Tobey** stated one of the changes we have made in this process is we have taken a framework that envisioned multiple bonds at higher amounts and reduced them to single bond at reduced amount that reflects the marketplace and still protects the city's interest and asked if Attorney Lowe agrees with that.

**Ms. Lowe** agrees.

**Councilor Tobey** asked Mr. Parisi when we will see a facilities plan from Brown and Caldwell.

**Joe Parisi, DPW Director** replied the reality is it will be into the next year but he will provide an update.

**Councilor Tobey** asked when was the contract awarded.

**Mr. Parisi** replied a couple of months ago and noted there are multi facets of the plan.

**Councilor Tobey** asked if there is a calendar period of time where they are to complete the performance.

**Mr. Parisi** will meet with the consultant to get an update and present that to the full council.

**Councilor Grow** asked about the issue of 40%. Is there a better way to determine a privilege fee other than 40% of the last sewer betterment paid.

**Mr. Parisi** agrees that is arbitrary and difficult to put an assessment on; whether it be a flat rate that represents a truer cost. He feels further discussion on fees is needed by vested people.

**Councilor Grow** asked if there has been some thought given to creating a sewer advisory commission to review applications as they come forward and who would create that board.

**Mr. Parisi** agreed and stated we had a similar group of people discussing sewerage issues. .

**Attorney Lowe** explained that boards and commissions are authorized unless you are talking about short term advisory (ad hoc). Sewer commissions tend to be found in town forms of government. You also have rights under the Charter, control over any department head that had some regulatory authority and she noted that is up to 40%, not a 40% charge.

**Mr. Magoon** stated there is new language in Section 23-16(c ) that talks about privately constructed sewers and refers to getting necessary easements from private property owners. This is saying we need to have these easements from the private property owner in order to do that.

**Councilor Tobey** thinks Attorney Faherty was asking if it is reasonable to assess a privilege fee on a private sewer extension given the other costs they are occurring.

**Attorney Lowe** replied yes, the 40% is arbitrary and can be amended but there is a sound basis to have some sort of administrative fee for people to join the sewer.

**Council President Destino** stated this amendment makes privately constructed sewer just as applicable as publicly, up to 40% but the DPW Director still has the discretion to charge less.

**Councilor Grow** asked if you are going to charge an entrance fee on a privately constructed sewer it seems that in all in fairness you ought to charge that same entrance fee on a publicly constructed sewer project. It needs to be consistent across the board, with one fee for commercial and one for residential.

**Councilor Tobey** stated there has been a period of numerous years now where there has been a paralysis for the city to move forward with any sewers and we are trying to break this into pieces to move some of these matters forward. The inequity of amounts we paid to the system, should be a capital reserve and we should be jamming to fix this whole privilege fee scenario so there are no more issues going forward.

**Councilor Grow** requested the administration establish an entrance fee schedule.

**Council President Destino** would like to see a complete sewer fee schedule.

**Councilor Tobey** stated in trying to put this into a working framework it has gotten almost too complex. He agrees with the need for a fee schedule.

**The administration is requested to submit a fee schedule and the public hearing on proposed amendments to the private sewer ordinance was continued to 12/11/07.**

## **CITY COUNCIL**

**Tuesday, December 11, 2007 – 7:00 p.m.**

**Kyrouz Auditorium – City Hall**

## **Chapter 23 UTILITIES\***

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\*Cross reference(s)--Buildings and building regulations, Ch. 5.

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## ARTICLE I. IN GENERAL

Secs. 23-1--23-14. Reserved.

## ARTICLE II. SEWERS\*

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\*Cross reference(s)--Buildings and building regulations, Ch. 5; discharge of water or other liquid on sidewalks, § 21-10.

State law reference(s)--Municipal authority to regulate sewers, M.C.L.A. c. 40, §§ 5, 6; sewers generally, M.G.L.A. c. 83.

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### DIVISION 1. GENERALLY

#### Sec. 23-15. Assessments.

(a) Every person owning land abutting upon any way in which a main or common sewer has been laid out, and who enters or has entered his particular drain into such main drain or common sewer, or who by more remote means receives benefit thereby for draining his land or buildings, shall be assessed under the provisions of M.G.L.A. c. 83, § 14. The director of public works or the designee or designees of the director shall have the power as set forth in M.G.L.A. c. 83, § 15, when ascertaining assessments as a betterment for construction, to apply a rate based upon a uniform unit method. A uniform unit method shall be based upon sewerage construction costs divided among the total number of existing and potential sewer units to be served after having proportioned the cost of special and general benefit facilities as provided in section 23-24(a).

(b) Assessments under this section shall be ascertained, assessed, certified and committed to the city treasurer by the director of public works or the designee or designees of the director. Such assessments may be made for all sewers, lateral sewers, pump stations and appurtenant works. Sewer betterment assessments and any sewer betterment policies which are adopted by the city council under M.G.L. c. 80 and M.G.L. c. 83 for particular public sewer construction projects shall follow the procedures set out in section 23-24.

(Code 1970, § 18-1; Ord. No. 9-1992, 3-3-92; Ord. No. 42-1997, 6-10-97; Ord. No. 20-1999, § I, 8-10-99)

#### Sec. 23-16. Laying out and payment for particular sewers connecting with common sewer or main drain and sewer privilege fee.

(a) Whenever, in the course of a sewer extension *installed* by the city, any land is connected with a common sewer or main drain laid out by the department of public works in a public or private way, the department shall, at the expense of the city, lay and maintain the particular sewer providing such connection from the common sewer or main drain to the boundary of the way, except in certain cases where a pump is necessary to tie in the property. If, at the time of construction by the city of a sewer extension, it is determined that a grinder pump or other such device will be required, pursuant to M.G.L. c. 83, § 15, in order to connect any existing building to the sewer, the city shall install and maintain the pump, force main and appurtenances ***upon obtaining the necessary private property construction and maintenance easements from the property owner.*** If the city sewer construction involves Septic Tank Effluent Pump (S.T.E.P.) sewers, the department shall, at the expense of the city, install and maintain the S.T.E.P. sewer components on the private properties which have habitable dwellings. The property owner may elect to install and/or maintain the grinder pump or other pump and the S.T.E.P. components by means of a private contractor as provided in the city sewer regulations. The city will not provide pumping systems or S.T.E.P. components for properties that are vacant or have structures which are uninhabitable at the time of the construction by the city of the sewer extension. Installation and maintenance of any pumps, tanks, and appurtenances as may be necessary for tying in residential, commercial or industrial properties developed subsequent to the construction by the city of a sewer extension will be the responsibility, of the private property owner.

(b) The owner of any land benefited by the layout out of a particular sewer from the common sewer to the boundary of the way shall pay to the city for the permanent privilege of using the same, such reasonable amount as the director of public works may determine, under the provisions of M.G.L. A. c. 83, § 24, and the amount so determined shall be assessed, certified and committed to the city treasurer by the director of public works.

(c) Notwithstanding the provisions of section 23-15 and 23-16(a) and (b), the owner(s) of a subdivision which pursuant to the regulations of the planning board sections 4.4.2(c) or 4.4. 1 (b) who has/have been required to

construct a sanitary sewer, shall not be assessed a sewer betterment fee but shall be assessed a sewer privilege fee on a per lot basis in lieu of a betterment. Such fee shall be assessed at the time of the subdivision dry sewer is connected to the main sewer and may be subject to apportionment. In addition, regardless of whether or not a subdivision is involved, any applicant for a *privately constructed* sewer extension permit, shall, at the time such sewer extension is completed pay such privilege fee *as duly adopted by the Gloucester City Council*. ~~The fee shall be determined by the director or the director's designee(s) and shall not exceed forty (40) percent of betterment for the most recent city sewer project.~~

(Code 1970, § 18-2; Ord. No. 9-1992, 3-3-92; Ord. No. 28-1992, § 3, 10-13-92; Ord. No. 42-1997, 6-10-97; Ord. No. 20-1999, § 1, 8-10-99)

#### **Sec. 23-17. Disposition of receipts from assessments.**

(a) The receipts from assessments for particular sewers shall be applied to the payment of the cost of particular sewers.

(b) The receipts from assessments and charges under section 23-15 shall be applied to the payment of interest upon bonds or notes issued for sewer purposes and to the payment or redemption of such bonds or notes.

(Code 1970, § 18-3)

#### **Sec. 23-18. Plans of sewerage system**

The location of all sewers and drains and other structures and works used in connection therewith, which constitute part of the system or systems of sewerage or sewage disposal laid out or constructed by the department of public works *or as privately constructed under the private sewer extension rules and regulations*, shall be shown on plans on file at all times with the department of public works, and a duplicate of the plans shall be filed by the department with the city engineer. Both sets of plans shall be open to inspection by the citizens of the city.

(Code 1970, § 18-4)

State law reference(s)--Similar provisions, M.G.L.A. c. 83, § 2.

#### **Sec. 23-19. Charges for use of common sewers.**

(a) Every person who enters his particular sewer, directly or indirectly, into a common sewer laid out by the department of public works shall pay an annual charge for the use of the common sewers, under the provisions of M.G.L.A. c. 83, § 16. Such charges shall be based on rates established by the director of public works, and the charges on each person in accordance with the rate so established shall be ascertained, assessed, certified and committed to the city treasurer by the director of public works.

(b) Commercial users of the city sewer system using in excess of one million (1,000,000) gallons of water annually are assessed in addition to the charges under subsection (a) the sum of one hundred dollars (\$100.00) for each million gallons of water used annually.

(Code 1970, § 18-5; Ord. of 5-17-77, § 1)

#### **Sec. 23-20. Acceptance of out of town septage prohibited.**

Acceptance of septage from out of town in the city's sewer system is prohibited.

(Ord. of 2-7-84, § I)

#### **Sec. 23-21. Form of required notice.**

Whenever notice is required of a party to this article, it shall be by certified mail, unless otherwise specified.

(Ord. of 12-7-82, Art. VIII)

#### **Sec. 23-22. Land not built upon; extension of time for assessment.**

Any land not built upon at the time of a sewer betterment assessment may upon application of the land owner receive an extension of time for the payment of the assessment until the land is built upon. Interest at the rate of four (4) percent per year shall be paid annually upon the assessment from the time it was made. The assessment shall be paid within three (3) months after such land is built upon.

(Ord. No. 9-1992, 3-3-92; Ord. No. 42-1997, 6-10-97)

#### **Sec. 23-23. Compensatory sewer privileges fee; increase in use of land.**

Notwithstanding the other provisions of Chapter 23, Article II, Sewers, if a betterment has: (i) been assessed to a property based upon the estimated number of developable sewer units as required by this article or a sewer betterment policy adopted by the city council and said property is ultimately developed to accommodate a number

of sewer units in excess of the number estimated for determining the betterment assessment, and/or (ii) been assessed to a developed and later in time the use of that parcel is increased to accommodate a number of sewer units in excess of the number estimated for determining the betterment assessment, then the city shall assess a compensatory sewer privilege fee to reflect the increased use. This fee shall be equivalent to the amount which would have been charged as a betterment assessment upon the additional uses or units at the time of the original assessment. Apportionment of this fee shall be permitted only if specifically requested at the time of assessment and only for a period of ten (10) years or less. Apportioned sewer privilege fees shall bear interest at the same rate charged for the most recent city sewer project betterments.

(Ord. No. 9-1992, 3-3-92; Ord. No. 42-1997, 6-19-97; Ord. No. 20-1999, § 1, 8-10-99)

#### **Sec. 23-24. Sewer betterment assessments.**

(a) General.

(1) The city, acting through the city council, shall assess the owners of land abutting a sewer line installed by the city, at a rate based upon a uniform unit method as defined by M.G.L. c. 83, § 15. Revenue generated by said betterment assessments shall cover the total project costs as defined herein in section 23-24(b)

**[THE DELETED LANGUAGE AND NEW LANGUAGE SHOWN WITH DOUBLE UNDERLINE IN SECTION 23-24 ARE PART OF THE PUBLIC HEARING #7 ON 12/11/2007.]**

Replaces deleted language of Sec. 23-24 (a)(1)

The City Council shall only approve sewer betterments with a City contribution if all of the following conditions have been met:

- A. The City's debt service expenditures, as documented to the City Council by the City Treasurer, do not exceed 8% of its general fund revenue as indicated in the currently adopted budget.
- B. The project is consistent with the City's Facilities Master Plan as adopted by the City Council.
- C. The project provides a clear environmental benefit and resolves existing neighborhood-wide failed septic systems which have no other feasible resolution.
- D. The project is required under a State or Federal Mandate through administrative or court action.

If a City contribution is to be made, pursuant to MGL c. 83, §18 and §23, the City share shall not exceed 25% of the total project costs up to and not to exceed the value of \$6,000 per residential dwelling unit.

~~(1) less a city share equal to twenty-five (25) percent of said total costs up to and not to exceed an amount equal to the value of six thousand dollars (\$6,000.00) per residential dwelling unit. When the sewer construction includes both sewer construction in the street and sewer construction on a private lot (such as S.T.E.P. sewer construction) for purposes of determining the city share:~~

- ~~a. To determine the unsubsidized cost of street work of per residential dwelling unit: divide the total costs for street construction by the number of street units.~~
- ~~b. To determine the unsubsidized cost per unit of on lot work: divide the total cost of on lot work by the number of on lot installation units and the average costs of such on lot construction for all similarly situated properties in the project to be assessed.~~
- ~~c. Add the unsubsidized costs per residential dwelling unit of street work to the unsubsidized cost per unit of on lot installation and multiply the sum by twenty-five (25) percent.~~
- ~~d. The city's share of a residential unit will be either the figure resulting from above calculation or six thousand dollars (\$6,000.00) on that individual property whichever is the lesser amount.~~

(2) On-lot betterments will be assessed:

a. For properties with S.T.E.P. sewers in accordance with the number and size of step tanks installed on the lot with one on-lot betterment assessed for each standard size tank installed on the parcel. On-lot betterments for oversized step tanks will be assessed with an increased betterment in an amount equal to the percentage increase in the size required for the lot; and

b. For grinder pumps or pressure sewer pumps in accordance with the actual project costs of the pumps.

(b) Method of assessment: uniform unit.

(1) The City of Gloucester shall assess sewer betterments based upon a uniform unit method. Each unit shall be equal to a single-family residence. Multiple-family buildings and nonresidential buildings as described herein shall be converted into units on the basis of residential equivalents. The total assessment for a particular sewerage construction project shall not be based on or limited by an estimated betterment. Revenue generated by said betterment assessment shall be equal to or shall cover the total project costs associated with design and construction of the sewers and pumping station, and appurtenant work of both the on-street and on-lot sewer components, ~~less the city share.~~

(2) The city shall levy assessments against all properties abutting a sewer street after acceptance of the entire pertinent construction contract including finalization of all pertinent contractual documents. The date of acceptance shall be determined by the DPW director. In the order of assessment, the city shall designate the owner of each parcel on the preceding January first as liable for assessment under the provisions of the General Laws.

(3) For assessment purposes, all properties receiving direct benefit from the sewerage system shall be converted into sewer units. Properties receiving direct benefit, either developed or undeveloped, shall be designated a number of sewer units under the following guidelines:

a. Single-family dwellings shall comprise one (1) sewer unit.

b. Two-family dwellings shall comprise two (2) sewer units.

c. Three-family dwellings shall comprise three (3) sewer units.

d. Four-family dwellings shall comprise four (4) sewer units.

(4) Multiple-family dwellings in excess of four units shall comprise a number of sewer units based on the following methodology:

a. Rental residential properties such as apartments shall be assessed one sewer unit for each apartment with more than one bedroom. Rental properties shall be assessed one-half (1/2) of one (1) sewer unit for each one-bedroom or studio apartment.

b. Residential condominium complexes shall be assessed one (1) sewer unit for each dwelling unit.

(5) Subdivisions shall be assessed one (1) sewer unit for each buildable lot except that a subdivision which pursuant to subdivision regulations of the city agreed in the course of subdivision approval to install and by the appropriate assessment date for betterments for a particular public sewer construction project has actually installed a dry system in said subdivision shall not be assessed a sewer betterment fee per lot but shall be assessed a sewer privilege fee as set by the sewer ordinance (section 23-16(c)). Certain lots not involving actual subdivision shall also be assessed as provided in the sewer ordinance (section 23-16(c)).

(6) Non-residential buildings, which shall include all industrial, commercial and municipal properties, shall comprise a number of sewer units based upon water consumption as follows: Non-residential water usage (gpd) = sewer units x three hundred (300) gpd (rounded up to the next whole number).

Non-residential buildings not metered for water use shall be assigned a water consumption volume based on Title 5 (Part 2, Section 13) of the State Environment Code of the Commonwealth of Massachusetts, Minimum Requirements for the Subsurface Disposal of Sanitary Sewage.

(7) When a single structure or building contains a nonresidential use and a residential use and neither use is accessory to the other and the non-residential use does not receive city water service, such mixed use structure shall be charged a betterment only for the residential unit or use. This provision shall not apply in the following zoning districts as defined in the city zoning ordinance: BP, Business Park; GI, General Industrial; MI, Marine Industrial; EB, Extensive Business; and S, Service District.

(8) Undeveloped residential lots shall be converted into dwelling units on the basis of maximum number frontage and area requirements as directed in the zoning ordinance in effect at the time of assessment. Each potential dwelling unit shall then comprise one (1) sewer unit; however, undeveloped lots shall be assessed for only in-street sewer costs and shall not be assessed any on-lot costs. At the time that the lot is built upon, the property



owner shall bear the complete costs of installing any necessary on-lot public and private sewer components on their private property pursuant to city sewer regulations.

The owner of an undeveloped lot may apply pursuant to M.C.G.L. c. 83, § 19, to extend the time for payment as provided in the sewer ordinance (section 22-23). In addition, land classified as agricultural, horticultural, recreations, or forest land, upon the application of the owner, may have the betterment assessment suspended for so long as the land is devoted to that use pursuant to M.G.L. c. 61A, § 18, M.G.L. c. 61B, § 13, and M.G.L. c. 61, § 5.

(9) Undeveloped non-residential lots shall be converted into a maximum anticipated water consumption on the basis of the zoning ordinance. An equivalent number of sewer units shall then be determined utilizing the formula described for nonresidential. developed properties (rounded up to the next whole number).

(10) Nothing in this section shall supersede the language of city ordinance section 23-23 concerning a compensatory fee for increase in the use of the land.

(c) Betterment payment.

(1) Except as provided herein, the provisions of the General Laws relative to the assessment, apportionment, division reassessment, abatement and collection of sewer assessments shall apply. The tax collector of the City of Gloucester shall have all of the powers conveyed by the General Laws. In accordance with M.G.L. c. 80, § 12, assessments made shall constitute a lien upon the land assessed until the full balance is paid.

(2) At the time of assessment, a property owner may select a payment schedule over a period of ten (10) years or twenty (20) years or another term of years less than twenty (20) if they so specifically request. Once a selection has been made, the payment method may not be changed at a later date; however, the balance of the principal due on any lien may be paid in full any time.

(3) Upon the transfer of title to a new owner, the seller/transferor shall immediately notify the city treasurer/collector and city assessor. After transfer of title, the betterment lien may be transferred. The betterments may be paid in full to the collector's office without interest or charges within thirty (30) days of the date of assessment.

(4) With regard to apportionment, the interest rate charged by the city shall be the project bond rate paid by the city for the sewer project plus a flat fee of two hundred dollars (\$200.00) as allowed by Acts and Resolves of 1993, Commonwealth of Massachusetts, Chapter 433.

(d) Abatements and deferrals.

(1) Unbuildable lot.

a. A property owner may request of the building inspector a formal written opinion which declares that under the then current city zoning ordinance, the lot(s) which have been assessed a sewer betterment is not buildable without issuance of one (1) or more variances under the applicable zoning ordinance provisions. This letter must be filed permanently with the building inspector and with the zoning board of appeals. Upon issuance of the opinion, the property owner may then file an application for abatement with the assessing board which shall include a certified copy of the building inspector's opinion and which shall require a notarized statement that the owner and any subsequent purchaser or their assigns or agents shall not apply for a variance to make the lot buildable.

b. A property owner may file a notice of intent to construct a dwelling with the conservation commission for one (1) or more lots which have been assessed a sewer betterment. Following the regular hearing procedures of the conservation commission for any such notice, if the commission issues a formal denial of the notice of intent to construct a dwelling, and if all such documents which are otherwise required by law to be filed with the registry of deeds have been so filed, then the property owner may file with the assessing board an appeal action for abatement so long as the owner did not appeal the denial. The appeal action shall include a certified copy of the denial of the notice of intent to construct a dwelling.

c. All such abatements which are issued by the assessing board under this section 23-24(d)(1) shall also be permanently filed with the offices of the building inspector and the conservation commission. All applications and orders or opinions issued under this section shall state that the property owner has voluntarily requested that the property be found unbuildable and that the property owner fully understands all consequences stemming from such determination.

(2) Age and income.

A property owner may defer the betterment assessment as provided in M.G.L., c. 80, § 13B, which has been accepted by the city, if they are sixty-five (65) years of age or older and qualify under M.G.L., c. 59, § 4, clause

41A. However, the transfer of lien provision, section 23-24(c), betterment payments, shall not apply to deferrals as provided for in this section, in compliance with c. 80, § 13B.  
(Ord. No. 42-1999, 6-10-97; Ord. No. 20-1999, § 1, 8-10-99)

*Sec. 23-25. Fees and Bonds*

A. General. The Applicant of a privately constructed sewer extension shall pay all fees and provide all bonds associated with the private sewer extension.

B. City Administrative Fees. The Applicant of a privately constructed sewer extension shall pay all City administrative fees associated with the privately constructed sewer extension's design review and construction inspection, in accordance with the City of Gloucester Rules and Regulations and Ordinances. Fees shall be approved by the City Council.

C. 25% Performance Bond. The Applicant of a privately constructed sewer extension shall provide the City with an appropriate performance bond or equivalent escrow account, equal to **25%** of the estimated construction cost, prior to starting construction of the sewer extension. Said bond shall only be used by the City if the City determines the Applicant failed to complete the construction of the extension **or failures or defects in construction**. In the event the bond is used to **either discontinue the project in a safe and secure manner or** complete the project, the Applicant shall be deemed by the City to have abandoned the project and all Applicant rights to the project shall be waived by the Applicant. Any modifications to the extension during construction may require an increase on the performance bond's value. ~~The bond shall cover the estimated period of design and construction and shall be terminated when the City declares ownership of the extension.~~ **The City shall retain the 25% Bond for a period of eighteen months after completion of the project for the purpose of applying towards failures or defects in construction. Such bonding will not be invalidated by any subsequent contiguous extensions or connections.**

~~D. 25% Maintenance Bond. The Applicant shall provide the City with an appropriate maintenance bond or equivalent escrow account for a period of 3 years after completion of construction, equal to 25% of the independently audited, final construction cost, prior to the City establishing ownership of the extension. Said bond shall only be used by the City if the Applicant fails to respond to issues of repair, operation or maintenance of the extension. The bond shall be terminated when the City assumes operation and maintenance responsibilities of the extension but in any event by three (3) years after construction completion.~~

D. Fees or Assessments to other Extensions. It is prohibited for **the owner of** a privately constructed sewer extension to charge any fees to another contiguous privately constructed sewer extension. Each application for an additional sewer extension shall be considered as a separated sewer extension. An existing Applicant may not charge any fees or assessments to a new Applicant.

E. Fees or Costs collected by Applicant from properties connecting. **Applicant shall be allowed to charge an Entrance Fee to each property owner that desires to connect to the sewer constructed pursuant to these regulations, for the privilege of entering the Sewer Extension. The amount of any Entrance Fee payable to Applicant shall be a single fee, and shall not be a continuing fee. In connection with the granting of such Entrance Fee, the following provisions shall apply. The amount of any Entrance Fee payable to Applicant shall be in the amount set forth below:**

1. **The Entrance Fee shall be calculated based on project costs and the number of potential connections. This calculation shall be performed and agreed to prior to project approval and issuance of the necessary permits to construct the sewer extension and shall incorporate an annual growth factor, based on the Consumer Price Index, calculated and added on an annual basis upon project completion.**

2. **The City shall not approve any application for a connection, nor shall it issue any connection permit to the Sewer Extension until the City has received written confirmation from Applicant indicating that the property owner has paid an Entrance Fee to Applicant. After Applicant provides such written confirmation to the City, the City shall approve any connection permit necessary for the access to the sewer, subject to proper engineering of the connection.**

3. **Unless and until the Entrance Fee has been paid, no person shall be entitled to connect to the Sewer Extension based upon claim that the Sewer Extension lies within a public way, or in an easement in favor of the City, as the case may be.**

4. Applicant shall not profit from the collection of Entrance Fees. Applicant represents and guarantees that the cost of the Project will be reasonable and not exceed the estimated project cost as approved by the City, which sum is referred to as "maximum guaranteed cost". If the actual cost of the Project exceeds the maximum guaranteed cost, Applicant agrees to pay from its own funds all amounts in excess of the maximum guaranteed cost. Said maximum guaranteed cost shall be supported by written proposal(s) from Applicant and/or any subcontractors of Applicant thirty (30) days prior to the commencement of construction under this Agreement. The right of Applicant to charge and collect Entrance Fees shall terminate upon the expiration of ten (10) years from the date the construction of the Project is substantially completed.

Under this Agreement, Substantial Completion shall constitute approval for use by the City and its engineering consultants, or, at that point in time when Applicant has recouped 100% of the Project Costs, whichever is sooner.

5. The payment of Entrance Fees to Applicant except as stated in paragraph E.6. below, shall be in addition to, and not in lieu of, any fee or connection charged by the City to any new user. The connection fee to the City shall be assessed to any new user in the same manner and in the same amount as if the Sewer Extension were already part of the System and not subject to a privately funded extension.

6. The City hereby waives any connection fee from Applicant and any property owner or operator who participates with Applicant within one (1) year of project approval. As a condition precedent to waiving such fees, a "capital contributor" (property owner or operator) who participates as such shall be required to pay to Applicant the applicable Entrance Fee provided for in Paragraph E above and provided the City receives a copy of the executed Agreement. The waiver of such connection fee shall only apply to the specific property of a property owner or operator which directly abuts the sewer line or the extension thereof and not Applicant. Applicant shall identify any and all such participants, in writing, to the City prior to the commencement of construction.

F. Sewer Use Charges. Upon connection to the privately constructed sewer extension, every user shall pay annual sewer use charges as per Gloucester Code of Ordinances Sec. 23-19. Secs. 23-26--23-34. Reserved.

## **DIVISION 2. USE REGULATIONS**

### **Sec. 23-35. Definitions.**

Unless the context specifically indicates otherwise, the meaning of terms used in this article shall be as follows: Act shall mean Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

Average daily flow shall mean the total volume of sewage in gallons measured or estimated at a metering station or other point during a continuous period of thirty (30) days divided by thirty (30) days.

BOD (denoting biochemical oxygen demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees centigrade, expressed in milligrams per liter.

Building drain shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

Building sewer shall mean the extension from the building drain to the public sewer or other place of disposal.

Categorical pretreatment standards means discharge limitations for specific industrial user categories promulgated by the United States Environmental Protection Agency (E.P.A.) under federal law.

Combined sewer shall mean a sewer receiving both surface runoff and sewage.

Director shall mean the director of public works, or his authorized deputy, agent, or representative.

Garbage shall mean solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

Indirect discharge (or discharge) shall mean the introduction of pollutants into the wastewater treatment facility from any nondomestic source regulated under section 307(b), (c) or (d) of the Act.

Industrial user shall mean a source of indirect discharge.

(1) Significant industrial user shall mean:

- a. All industrial users subject to categorical pretreatment standards; and
- b. Any other industrial user that: discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the wastewater treatment facility (excluding sanitary, noncontact cooling water and boiler blowdown wastewater); contributes a process wastewater that makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the wastewater treatment plant; or is designated as such by the city on the basis that the industrial user has a reasonable potential for adversely affecting the operation of the wastewater treatment facility, either through pass through of pollutants, sludge contamination or endangerment to workers in the sewers or wastewater treatment facility.

(2) Major industrial user shall mean:

- a. Industries not subject to categorical pretreatment standards that discharge between five thousand (5,000) and twenty-five thousand (25,000) gallons per day of process wastewater, with some potential for violation of pretreatment standards or requirements; and
- b. Any industrial user not subject to categorical pretreatment standards that discharge less than five thousand (5,000) gallons per day and have a history of noncompliance with pretreatment standards and requirements.

(3) Other industrial user shall mean:

- a. An industrial user not subject to categorical pretreatment standards that discharges less than five thousand (5,000) gallons per day of process wastewater; and
- b. An industrial user not subject to categorical pretreatment standards that discharges process wastewater that has no reasonable potential for violation of pretreatment standards or requirements.

The city may at any time, on its own initiative, or in response to a petition received from an industrial user not subject to categorical pretreatment standards, reclassify the industrial user based on changes in the quantity or characteristics of their wastewater discharge and/or their history of compliance with pretreatment requirements. Industrial wastes shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

Interference shall mean an inhibition or disruption of the operation of the sewage work or of the final use or disposal of sludge. Such inhibition or disruption may result in violation of federal laws or more stringent state or local regulations, which protect air, land or water resources. Such laws or regulations may include, but not be limited to the requirements of the National Pollutant Discharge Elimination System (NPDES) permit issued to the city for the operation of the sewage works.

Maximum daily flow shall mean the highest volume in gallons measured at a metering station or other point during any continuous twenty-four (24) hour period.

National pretreatment standard or pretreatment standard or standard means any regulation containing pollutant discharge limits promulgated by EPA under Sections 307(b) and (c) of the Clean Water Act applicable to industrial users including the general and specific prohibitions found in 40 CFR 403.5 and the National categorical pretreatment standards promulgated by EPA that are set out in 40 CFR Chapter I, Subchapter N, Parts 405--471.

Natural outlet shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.

New Source shall mean:

- (1) Any building structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act which will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:
  - a. The building, structure, facility or installation is constructed at a site at which no other source is located; or
  - b. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
  - c. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated into the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of (1) above, but otherwise alters, replaces or adds to existing process or production equipment.

(3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

a. Begun, or caused to begin as part of a continuous onsite construction program:

1. Any placement, assembly, or installation of facilities or equipment; or

2. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment; or

b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this paragraph.

NPDES permit shall mean a permit issued to the city's wastewater treatment facility pursuant to section 402 of the Act.

Pass through shall mean a discharge which exits the city's wastewater treatment facility into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of violation of any requirement of the City's NPDES permit (including an increase in the magnitude or duration of a violation).

pH shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

Pretreatment requirement is any substantive or procedural requirement, other than a national pretreatment standard, applicable to industrial users.

*Private Sewer Connections to remain private refers to sewer connections constructed under the subdivision process, that connect a series of buildings to remain under common ownership through a homeowners association and are not subject to privately constructed sewer extension regulations.*

*Privately constructed sewer extension is a sewer extension, including pipe, pump stations and appurtenant works, constructed by an Applicant, other than the City of Gloucester, that shall be owned by the City of Gloucester at the completion of construction.*

*Privately Constructed Sewer Extension Applicant is a person or entity seeking a permit to construct a sewer extension for the City of Gloucester.*

*Privately Constructed Sewer Extensions, City Assumption of Ownership. A privately constructed sewer extension is accepted when the DPW Director or his/her designee declares in writing that the construction is complete and the extension is suitable for use and able to receive wastewater from users. This notice of acceptance shall be signed, dated and kept on file in the City Engineering Department and sent by Certified Mail to the Applicant.*

Properly shredded garbage shall mean the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1.27 centimeters) in any dimension.

Public sewer shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

Sanitary sewer shall mean a sewer which carries sewage and to which storm, surface and groundwaters are not intentionally admitted.

Sewage shall mean a combination of water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface and storm waters as may be present.

Sewage treatment plant or wastewater treatment facility shall mean any arrangement of devices and structures used for treating sewage.

Sewerage works shall mean all facilities for collecting, pumping, treating and disposing of sewage.

Sewer shall mean a pipe or conduit for carrying sewage.

*Sewer extension is an extension, including pipe and appurtenant works, of a previous sewer extension that is typically installed parallel with, and typically within, public or private rights-of-way, to which sewer connections from abutting properties are made. All sewer extensions are part of, and owned by, the City of Gloucester.*

Sewer service connection shall mean the extension of the piped *connection, including pipe and appurtenant works*, used only for discharge of sewage, from a point of four (4) feet outside the foundation wall of the building *or a series of buildings under common ownership through a homeowners association or other similar*

*instrument*, served to its junction with the sanitary or combined sewer *extension*. The term shall have the same meaning as the term, "particular sewer" in M.G.L.A. c. 83.

Significant noncompliance (SNC). An industrial user is in significant noncompliance if its violations meet one or more of the following criteria:

- (1) Chronic violations of wastewater discharge limits, defined as those in which sixty-six (66) percent or more of all the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;
- (2) Technical Review Criteria (TRC) violations, defined as those in which thirty-three (33) percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit times the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH), or in the case of pH, when at least one-third (1/3) of all measurements taken during a six-month period are either:
  - a. At least one (1) standard unit greater than any applicable upper limit on pH; or
  - b. At least one (1) standard unit less than any applicable lower limit on pH. (For industrial users required to continuously monitor pH as a condition of their industrial user discharge permit, significant noncompliance for pH exists if the total of all excursions outside the permitted range with a duration equal to or exceeding thirty (30) minutes, totals seven (7) hours, twenty-six (26) minutes or more in any month.)
- (3) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the director determines has caused, alone or in combination with other discharges, interference or pass through;
- (4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or the environment or has resulted in the director's exercise of emergency authority to halt or prevent such a discharge;
- (5) Failure to meet, within ninety (90) days after the scheduled date, a compliance schedule milestone contained in an enforcement order, for starting construction, completing construction or attaining final compliance;
- (6) Failure to provide, within thirty (30) days after the due date, required reports such as baseline monitoring reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (7) Failure to accurately report noncompliance; or
- (8) Any other violation or group of violations that the director determines will adversely affect the operation or implementation of the pretreatment program.

Sludge shall mean any discharge of untreated or inadequately pretreated process wastewater, industrial waste, chemicals or other liquids, resulting from the breakdown of equipment, spills, process upset, accidental or intentional discharge or emergency bypass.

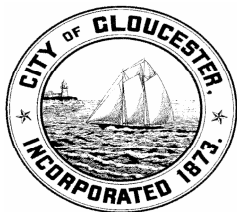
Storm drain, sometimes termed "storm sewer" shall mean a sewer which carries storm and surface waters and drainage, but exclude sewage and industrial wastes, other than unpolluted cooling water.

Suspended solids shall mean solids that either float on the surface of, or are in suspension in water, sewage or other liquids, and which are removable by laboratory filtering.

Water course shall mean a channel in which a flow of water occurs, either continuously or intermittently.

(Ord. of 12-7-82, Art. 1; Ord. No. 28-1992, § 1, 10-13-92; Ord. No. 26-1995, § 1, 4-18-95)

Cross reference(s)--Definitions and rules of construction generally, § 1-2.



## **GLOUCESTER CITY COUNCIL 2008 PUBLIC HEARING**

**PUBLIC HEARING NUMBER:** PH2008-009  
**SUBJECT:** Loan Order 08-03: \$2,055,510 for Sewer Construction  
**DATE OPENED:** 12/11/2007  
**CONTINUED TO:** 01/22/2008  
**CONTINUED FROM:** 12/11/2007  
**COMMITTEE MEETING:** 11/29/2007

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### **Legal Notice**

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#### **NOTICE OF A PUBLIC HEARING**

The **Gloucester City Council** will hold a **public hearing** on **Tuesday, December 11, 2007**, at **7:00 p.m.** in the Fred J. Kyrouz Auditorium, **City Hall**, relative to the following Loan Order:

**Loan Order 08-03**

**Sewer Construction, Drainage and Water Mains**

Ordered: that \$2,055,510 is appropriated for the purpose of financing sewer construction, water main rehabilitation and drainage improvements on Moorland Road, Page Street and Way Road; that to meet this appropriation the Treasurer with the approval of the Mayor is authorized to borrow: \$2,055,510 and issue bonds or notes therefore under G.L. c.44 or any other enabling authority; that the Mayor is authorized to take any other action necessary to carry out this project; and that the Treasurer is authorized to file an application with the Municipal Finance Oversight Board to qualify any or all of the bonds under G.L. c.44A and to provide such information and execute such documents as such board may require for those purposes.

At the public hearing, all interested persons will have the opportunity to be heard.

By Vote of the City Council  
Robert D. Whynott, City Clerk

GT – 12/3/07

**MOTION:**

**MOTION:** On motion of Councilor Destino, seconded by Councilor Grow the Budget and Finance Committee voted 3 in favor, 0 opposed to recommend to the full City Council Ordered that \$2,055,510 is appropriated for the purpose of financing sewer construction, water main rehabilitation and drainage improvements on Moorland Road, Page Street and Way Road; that to meet this appropriation the Treasurer with approval of the Mayor is authorized to borrow \$2,055,510 and issue bonds or notes therefore under M.G.L. Ch. 44 or any other enabling authority; that the Mayor is authorized to take any other action necessary to carry out this project; and that the Treasurer is authorized to file an application with the Municipal Finance Oversight Board to qualify any or all of the bonds under M.G.L., Ch. 44A and to provide such information and execute such documents as such board may require for those purposes and **FURTHER TO ADVERTISE FOR PUBLIC HEARING.**



**CITY COUNCIL  
AND  
CITY COUNCIL STANDING COMMITTEE  
Budget and Finance  
Thursday, November 29, 2007 – 7:00 p.m.  
City Hall – Third Floor Conference Room**

**1. Loan Order request for Page Street and Way Road.**

**Steve Magoon, CAO** stated the sewer, water and gas supply issue for Page Street and Way Road has been discussed for a number of years. Residents prompted a process of designing a sewer solution in this location and in the process of having that reviewed by the City engineering office and the state for permitting. As that process begins to culminate there has been significant discussion whether it should be a private or city project. At this point residents are hoping it will be pursued as a city project. The Administration has taken the position that the current sewer policy of the city providing 25% or up to a \$6,000 match is problematic for the city and the city is not willing to move forward with that. O&A has recommended amendments to that provision and recommended this loan order be forwarded. It is imperative that the loan order not go forward unless the betterment regulation is in place. At this point we are asking for advertisement of the loan order.

**Councilor Grow** asked for clarification that they want to advertise for public hearing on 12/11 contingent on the outcome of the sewer betterment policy.

**Councilor Destino** stated it is not only the 75/25% issue, there is also a facilities master plan being done.

**Mr. Magoon** stated that is in process but not yet complete and is a concern.

**Councilor Destino** stated tie in fees were discussed at Tuesday's night Council meeting and there is a possibility there may be more tie-ins beyond those existing homes on Way Road and Page Street.

**Councilor Swekla** feels we don't have enough information to vote on this.

**Councilor Destino** asked how much of the loan order is for water.

**Councilor Grow** stated there are three aspects of the project – water, sewer and gas and he asked if the gas company will be brought into this conversation and what part of the cost they will be sharing.

**Mr. Magoon** stated Engineering has had discussions with Keyspan and the City Engineer was confident they would contribute to the expense to some extent. The estimate for the water is \$398,300, \$175,000 for miscellaneous drainage improvements, and \$1.2 million for the sewer project.

**Councilor Destino** asked this \$2+ million loan order for 22 homes results in \$60,000 to \$65,000 in betterments, so why wouldn't you want to do this privately.

Joan can't do that locked down privately there will be many that will refuse to do it.

**Mary Ann McCormick** stated Engineering has said they don't want us to do this privately. If we have to do this project; we have to pay for it up front and not everyone on the street can afford to pay for this up front.

Everybody will be participating in paying for this if it is done publicly.

**Councilor Destino** stated the sewer betterment has to be cleared up before this can be voted upon.

**Councilor Grow** stated this was part of a public project when it first came forward and this area opted out.

**Councilor Destino** states specific to this project is that a lot of people can subdivide and build.

**Mary Ann McCormick** stated someone is alluding to tie-ins at the end of this project and there is no one planning on developing their property.

**Councilor Destino** stated there may be more tie-ins then betterments.

**Councilor Grow** stated the issue of tie-ins is valid but is not going to happen until the policy is sorted.

**Councilor Destino** stated it isn't just the betterment that needs to be clarified but the fee schedule for tie-ins as well.

**Mary Ann McCormick** stated even if this was approved tonight, construction wouldn't start for at least a couple of months, so it gives the city to time.

**Councilor Grow** stated this project is fully engineered and ready to go but there is a public safety aspect to this and he would like to hear from the Fire Chief on his concerns regarding water pressure.

**Chief Barry McKay** stated the water pressure in the Page Street, Way Road area is insufficient to fight a fire for any of the homes up there. The average home requires 750 gallons per minute (gpm). Back in 1983, the last flow



tests were 651 gpm. He suggested if you vote this for public hearing that you make it contingent that the betterment policies be applicable to this project.

**Councilor Grow** asked if they have done a flow test recently.

**Chief McKay** replied no, but flows haven't gotten better.

**Councilor Swekla** asked how many other places in Gloucester don't meet the standards.

**Chief McKay** replied there is adequate water in most areas.

**Councilor Destino** stated clearly the sewer policy will not be ready on 12/11 but we could advertise for the first meeting in January.

**Councilor Grow** asked assuming this goes forward and it is ready to go – how long would this project take to get up and running and completed.

**Mr. Parisi** replied we could get that out and back within a couple months time and the construction would begin in the spring time, barring no other permitting issues.

**Councilor Elect Ciolino** feels this is a public safety issue and that we owe these people the right to enough water pressure to put out a fire. If you are going to tear up the street you mine-as-well put in the sewer and the gas. It is definitely time to do this and he urged the committee vote on this tonight and let the full council hear it.

**Councilor Grow** doesn't think it is going to pass with the current subsidy program.

**Jim Ashbury, Way Road** has lived on Way Road for 26 years and noted this has been a problem that long – it is a major issue. This risk exists today and he is looking for a solution.

**Councilor Destino** stated the problem is the policy in place. The loan order and the payments of the betterments are the easy part – it is the tie-ins that come after.

**Linda Lowe, General Counsel** explained that the 40% is the privilege fee which has nothing to do with this issue. The betterment ordinance is 75% paid by the homeowner and 25% or up to \$6,000 paid by the city.

**Councilor Grow** stated the privilege fee is the 40%; it isn't a tie in fee, it is an entry fee.

**Councilor Destino** asked has the pipe been sized for added development.

**Ms. McCormick** replied it is gravity sewer system.

**Councilor Destino** asked how much blasting is required.

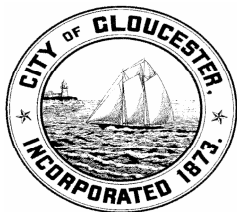
**Ms. McCormick** stated there will be some blasting.

**Councilor Destino** asked if this loan order includes blasting.

**Mr. Magoon** stated Mike Hale of Engineering did the estimate based on a similar project.

**Councilor Destino** stated when sewer comes in and betterments are handed out if someone has two lots they are going to get two betterments, so people start to build to pay for their betterments and you have to make sure the pipe is adequately sized.

**MOTION: On motion of Councilor Destino, seconded by Councilor Grow the Budget and Finance Committee voted 3 in favor, 0 opposed to recommend to the full City Council Ordered that \$2,055,510 is appropriated for the purpose of financing sewer construction, water main rehabilitation and drainage improvements on Moorland Road, Page Street and Way Road; that to meet this appropriation the Treasurer with approval of the Mayor is authorized to borrow \$2,055,510 and issue bonds or notes therefore under M.G.L. Ch. 44 or any other enabling authority; that the Mayor is authorized to take any other action necessary to carry out this project; and that the Treasurer is authorized to file an application with the Municipal Finance Oversight Board to qualify any or all of the bonds under M.G.L., Ch. 44A and to provide such information and execute such documents as such board may require for those purposes and FURTHER TO ADVERTISE FOR PUBLIC HEARING.**



## **GLOUCESTER CITY COUNCIL 2008 PUBLIC HEARING**

**PUBLIC HEARING NUMBER:** PH2008-003  
**SUBJECT** SCP #2007-24: 91 Riverview Road: Lowlands permit 5.5.4  
**DATE OPENED:** 11/27/2007  
**CONTINUED TO:** 01/22/2008, 02/26/2008  
**CONTINUED FROM:** 12/11/2007, 11/27/2007, 01/08/2008  
**COMMITTEE MEETING** 11/28/2007, 12/05/2007, 01/16/2008

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### **Legal Notice**

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#### **NOTICE OF A PUBLIC HEARING**

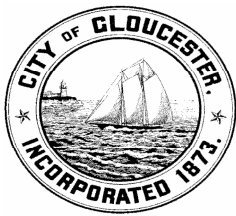
In accordance with the provisions of MGL Chapter 40A, Section 11, the Gloucester City Council will hold a public hearing on **November 27, 2007** at 7PM in the Kyrouz Auditorium, City Hall relative to the following Special Council Permit Application:

**APPLICANT:** Michael Scognamiglio  
**LOCATION:** 91 Riverview Road  
**TYPE OF PERMIT:** Lowlands Permit 5.5.4  
**PRESENTLY ZONED:** R-3

Plans of the above are on file in the City Clerk's Office and may be seen any business day prior to the Public Hearing. At the Public Hearing all interested persons will have the opportunity to be heard.

By Vote of the City Council  
Robert D. Whynott, City Clerk

GT – 11/12, 11/19/07



## GLOUCESTER CITY COUNCIL 2008 PUBLIC HEARING

**PUBLIC HEARING NUMBER:** PH2008-004  
**SUBJECT** SCP #2007-23: 71,73,79 Concord Street: Major Project, Shopping Center  
**DATE OPENED:** 11/27/2007  
**CONTINUED TO:** 01/22/2008, 03/18/2008  
**CONTINUED FROM:** 11/27/2007,01/22/2008  
**COMMITTEE MEETING** 01/16/2008

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### Legal Notice

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#### NOTICE OF A PUBLIC HEARING

In accordance with the provisions of MGL Chapter 40A, section 11, the Gloucester City Council will hold a public hearing on **November 27, 2007** at 7PM in the Kyrouz Auditorium, City Hall relative to the following Special Council Permit Application:

**APPLICANT:** Retail Management and Development Inc.

**LOCATION:** 71, 73, 79 Concord Street

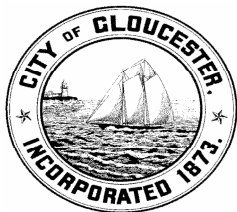
**TYPE OF PERMIT:** Major Project - Shopping Center

**PRESENTLY ZONED:** EB – Extensive Business

Plans of the above are on file in the City Clerk's Office and may be seen any business day prior to the Public Hearing. At the Public hearing all persons will have the opportunity to be heard.

By Vote of the City Council  
Robert D. Whynott, City Clerk

GT – 11/12, 11/19/07



## **GLOUCESTER CITY COUNCIL 2008 PUBLIC HEARING**

**PUBLIC HEARING NUMBER:** PH2008-005  
**SUBJECT** Council Order 2007-44: Amend 22-284 Rogers Street  
**DATE OPENED:** 12/03/2007  
**CONTINUED TO:** 01/22/2008, 02/12/2008  
**CONTINUED FROM:** 12/03/2007, 01/08/2008  
**COMMITTEE MEETING** 12/03/2007

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### **Legal Notice**

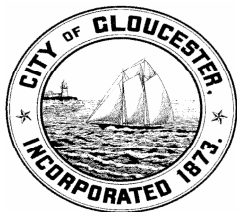
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#### **CITY OF GLOUCESTER NOTICE OF PUBLIC HEARING**

The Gloucester City Council will hold a public hearing on **MONDAY, December 3, 2007** at 7:00 p.m. in the Fred J. Kyrouz Auditorium, City Hall relative to the following changes to the Gloucester Code or Ordinances:

- Section 22-284 entitled "Service or Loading Zones" be amended by **DELETING**: Rogers Street, southerly side, beginning at a point 20 feet from the westerly corner of the entrance to the parking lot at #25 Rogers Street in a westerly direction for 52 feet from the hours of 6:00 a.m. to 6:00 p.m. daily.

And by **ADDING**: Rogers Street, southerly side, beginning at a point 30 feet from the westerly corner of the entrance to the parking lot at #25 Rogers Street in a westerly direction for 48 feet from the hours of 6:00 a.m. to 6:00 p.m. daily



## GLOUCESTER CITY COUNCIL 2008 PUBLIC HEARING

**PUBLIC HEARING NUMBER:** PH2008-006  
**SUBJECT** SCP #2007-25: 33 Emerson Avenue: 5.22 Wind Turbine  
**DATE OPENED:** 12/11/2007  
**CONTINUED TO:** 01/22/2008,02/26/2008  
**CONTINUED FROM:** 12/11/2007,01/22/2008  
**COMMITTEE MEETING** 11/28/2007

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### Legal Notice

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#### NOTICE OF PUBLIC HEARING

In accordance with the provisions of MGL Chapter 40A, section 11, the Gloucester City Council will hold a public hearing on December 11, 2007 at 7PM in the Kyrouz Auditorium, City Hall relative to the following Special Council Permit Application:

**APPLICANT:** Dunfudgin, LLC

**LOCATION:** 33 Emerson Avenue

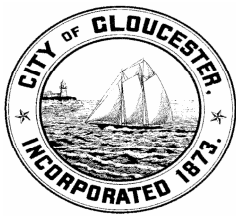
**TYPE OF PERMIT:** Section 5.22, Commercial Land Based Wind Facility

**PRESENTLY ZONED:** G-1, General Industrial

Plans of the above are on file in the City Clerk's Office and may be seen any business day prior to the Public Hearing. At the Public hearing all interested parties will have the opportunity to be heard.

By Vote of the City Council  
Robert D. Whynott, City Clerk

GT - 11/27, 12/03/07



## **GLOUCESTER CITY COUNCIL 2008 PUBLIC HEARING**

**PUBLIC HEARING NUMBER:** PH2008-008  
**SUBJECT** Council Order 2007-40: Amend 22-159, 22-291 Davis and Chapel Street  
**DATE OPENED:** 12/03/2007  
**CONTINUED TO:** 01/22/2008, 02/12/2008  
**CONTINUED FROM:** 12/03/2007, 01/22/2008  
**COMMITTEE MEETING** 12/03/2007

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### **Legal Notice**

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#### **CITY OF GLOUCESTER NOTICE OF PUBLIC HEARING**

The Gloucester City Council will hold a public hearing on **MONDAY, December 3, 2007** at 7:00 p.m. in the Fred J. Kyrouz Auditorium, City Hall relative to the following changes to the Gloucester Code or Ordinances:

- **Sec. 22-159. Parking prohibited between certain hours and on certain days and Section 22-291 entitled Tow away zones be amended by ADDING: Davis Street Extension Both Sides starting at its intersection with Chapel Street for a distance of 31 feet in a northerly direction. Davis Street Both Sides starting at its intersection with Chapel Street for a distance of 34 feet in a southerly direction. Chapel Street Both Sides starting at its intersection with Davis Street and Davis Street Extension for a distance of 36 feet in an easterly direction. As delineated Between the hours of 7:30a-2:30p on School Days.**

#### **COMMITTEE MINUTES**

### **O&A 12/03/2007:**

- a. Order 07-40 – Sec. 22-159, 22-291 - Chapel and Davis Streets

**The Traffic Commission did not recommend this.**

**Councilor Grow** stated he requested the DPW paint an extended line at the corner and put a provision forward for amendment to O&A. He was unable to attend the last Traffic Commission meeting and requested this be sent back to the Traffic Commission so he and school representatives can make a case for this. He would like to memorialize this so during school hours it remains a no parking zone.

**Councilor Tobey** stated they have been testing it these months and so far no issues.

**Gregg Bach, Principal East Gloucester Elementary** present.

**Bob Ryan** stated it is working well according to Mr. Bach.

**MOTION:** On motion of Councilor Grow, seconded by Councilor Foote the Ordinances and Administration Committee voted 3 in favor, 0 opposed to return Order 07-40 to the Traffic Commission for further review and consultation with school representatives.

CITY COUNCIL  
AND  
CITY COUNCIL STANDING COMMITTEE  
**Budget and Finance**  
**Tuesday, January 8, 2008 – 6:30 p.m.**  
**City Hall – Third Floor Conference Room**

**Attendance:** Councilor Jason Grow, Chair, Councilor Joe Ciolino, Vice Chair, Councilor Steve Curcuru

**Also:** Barry Boyce, Councilor Romeo, Councilor Tobey, Councilor George

**Absent:** David Bain

The meeting was called to order at 6:30 p.m. A quorum being present, a City Council meeting was also opened at 6:30 p.m.

**Discussion on the hiring of an Interim City Auditor.**

**Councilor Tobey** fully supports the hiring of Barry Boyce as interim city auditor and noted that Mr. Boyce is fully endorsed by Dick Hingston, Independent Auditor.

**Councilor Ciolino** questioned the number of hours a retiree is allowed to work by law.

**Barry Boyce** replied 960 hours over the calendar year or the difference between the retirement amount and what the position is paying now.

**Councilor Ciolino** also questioned hiring Mr. Boyce as a consultant and not an employee.

**Councilor Tobey** replied because Mr. Boyce will be a critical player during the reconciliation process, we have made a conscious decision not to burn all his time up front. David Bain, Personnel Director advised going with a contract services approach because it is less complicated and avoids insurance considerations.

**Councilor Ciolino** asked if the interim CFO was hired as a consultant.

**Councilor Tobey** believes so.

**Mr. Boyce** also thinks he was hired under contract services.

**Councilor Ciolino** asked Mr. Boyce if he is going to be applying for the job or stay in retirement.

**Mr. Boyce** replied he will stay in retirement.

**Mr. Curcuru** asked if Mr. Boyce would be working 30 hours per week.

**Mr. Boyce** replied that weekly it could be less or more.

**Councilor Grow** noted the addendum to the Mayor's report for tonight's council meeting includes a transfer for the funding to support the hiring of an interim City Auditor. He asked if Mr. Boyce has received a copy of Dick Hingston's report on the current reconciliation for 2006.

**Mr. Boyce** hasn't received a copy of that as of yet. During his time here he is hoping to do some operational things to strengthen the system and implement some of the first quarter.

**MOTION:** On motion of Councilor Ciolino, seconded by Councilor Curcuru the Budget and Finance Committee voted 3 in favor, 0 opposed to recommend to the full City Council the election of Barry Boyce to interim City Auditor according to the terms and conditions mutually agreed to and set forth in the contract.

**It was moved and seconded to adjourn the meetings at 6:50 p.m.**

Respectfully submitted,  
June Budrow, Clerk of Committees

CITY COUNCIL  
AND  
CITY COUNCIL STANDING COMMITTEE  
**Planning & Development**  
**Tuesday, January 8, 2008 - 6 p.m.**  
**City Hall – Kyrouz Auditorium**

**Attendance: Councilor Jackie Hardy, Chair; Councilor Sharon George, Vice Chair;  
Councilor Philip Devlin**

**Also: Councilor Curcuru, Greg Bach, Alicia Padre, Bob Whynott**

**Absent:**

**The meeting was called to order at 6:00 p.m.**

**Councilor Curcuru sat in briefly for Councilor George.**

Petition of the Gloucester School Department for installation of a utility pole.

**Greg Bach, School Department** pointed out the location of the proposed pole on the map (*copy in file*) and explained the reason for the pole is that they cannot feed anymore through the existing conduit, which is crushed. This is the last link of INET.

**Alicia Padre, 88 Cherry Street** is concerned that the request is for a 35 foot pole, when existing poles are 30 feet.

**Mr. Bach** replied that the 35 feet was an assumption and it could be 30 feet.

**Councilor George** asked if this will be an eyesore and have any neighbors complained.

**Mr. Bach** is not aware of any complaints.

**Councilor Hardy** asked if this could be put underground later, as promised originally.

**Mr. Bach** would need to go back to the drawing table to seek funds to do that.

**Councilor Hardy** asked about DigSafe.

**Mr. Bach** replied they would need to contact DigSafe and the DPW.

**Councilor Hardy** disclosed she is an abutter but will not benefit from this.

**Mr. Bach** stated the conduit was damaged the last time it was dug up and to re-bury the wires is not impossible, but difficult and will easily double the cost. He agreed to re-bury the wires by August 15, 2008. The pole will be installed during April vacation.

**MOTION: The Planning and Development Committee voted 3 in favor, 0 opposed to grant the petition from the Gloucester School Department for the installation of a temporary 30' utility pole approximately 75' west of Cherry Street (corner of Cherry Street and Dr. Osman Babson Road) (Map 105, Lot 30) for the purpose of carrying fiber optic cables from their current location to the O'Maley Middle School and further to revisit this at the Planning and Development meeting of August 13, 2008 at which time this permit shall expire.**

**It was moved and seconded to adjourn the meeting at 6:21 p.m.**

Respectfully submitted,  
June Budrow, Clerk of Committees



CITY COUNCIL  
AND  
CITY COUNCIL STANDING COMMITTEE  
**Planning & Development**  
**Wednesday, January 16, 2008 - 7 p.m.**  
**City Hall – Kyrouz Auditorium**

**Attendance:** Councilor Jackie Hardy, Chair, Councilor Sharon George, Vice Chair,  
Councilor Philip Devlin

**Also:** Lisa Mead, John Judd, Richard Griffin, Patty Pardee, Debora Taylor, Ronn Garry,  
Jeff Worthley

**Absent:**

**The meeting is called to order at 7:00 p.m.**

1. 10 Lookout Street – compliance to SCP conditions (*continued from 11/28/07*).

The attorney for the abutters requested a continuance to 1/30/08.

2. SCP 2007-24 – Michael Scognamiglio, 91 Riverview Road – Sec. 5.5 Lowlands  
(*continued from 12/5/07*).

The attorney for the applicant requested a continuance to 3/12/08. (*copy in file*)

3. SCP 2007-25 – Dunfudgin, LLC, 33 Emerson Avenue – Sec. 5.22 Wind Turbine  
(*continued from 11/28/07*).

The application is complete, the fee has been paid and it has been signed off by the building inspector and planning director; includes an abutters list, exhibits, maps, photos, and reports. Abutters have been notified. The committee agreed to waive the 30 days after application submittal requirement for a balloon test.

**Attorney Lisa Mead, 33 Emerson Avenue** provided an overview of the proposal to locate a Wind Energy Conversion Facility at 33 Emerson Avenue. The application was filed and supplemental information filed on 11/20/07 in response to a list of questions from the planning office. The height is 131' to the hub and 180' to the blade tip. The recently permitted Varian wind towers are over 500' tall. A pre-application conference was held on 7/10/07 with the City Council and complies with the ordinance requirements and set backs except for the setback from the joint property line. A section of Keyspan Energy property is abuts this property but does not have a building on it and is unlikely to be built upon; the reason being is (a) because of wetlands and riverfront statute and regulations and (b) because there is an easement directly in the middle of it and (c) if you were to treat it as a separate lot given dimensional requirements it is unlikely any building could be built there. The closest building is over 159' away (edge of Gloucester Transit Mix building). Another issue that came up at the preliminary meeting was the distance from the wind tower to the child play area at Pathways and that is over 345' away. Richard Griffin, Architect will address the visual impact from flicker issues and shadowing and a balloon test will be undertaken and pictures will be taken from three vantage points during that test. One of the requirements of the SCP ordinance is we present flicker and light effects from the turbine on surrounding properties. The local and DEP noise requirements have been met and the acoustical report clearly states the tower complies at the nearest residential property on Griffin Court with an ambient sound of 1-3 dbas at the nearest residence depending on the time of year. The 11/20<sup>th</sup> submission includes a confirmation from the FAA and Mass Aeronautical Comm. that no lighting is necessary on the tower nor does the applicant propose any lighting on the tower. The proposed facility will not have an adverse impact which overbalances its beneficial

effects on either the neighborhood or the city and provides a community benefit using “green” construction. Additionally, we propose that the GHS use the facility as part of its curriculum in particular to its close proximity to the school. Utilities will be underground and the mechanics of the tower will be located within the tower itself.

**John Judd, Professional Engineer, Gateway Consultants** is responsible for the site plan, including topography, location of wetlands and other natural resources and the proposed building adjacent to the wind tower.

**Questions.** **Councilor Hardy** asked if there will be any accessory buildings for any equipment. **Attorney Mead** replied all the mechanics will be located within the base of the tower. This is a monopole, 250 kilowatt facility.

**Councilor Hardy** asked about anchoring the facility.

**Richard Griffin, 37 Turner Street, Salem, MA, Architect** explained that the foundation is a 16’ hexagon that is about 6’ deep and has rock anchors that drill 15’ into the ledge at various points. The tower is a series of large circular steel pieces. The tower itself is cast into the concrete and interwoven with the reinforcements, designed for at least R-2 to R-4 strength. The manufacturer is Furlander, a German firm with numerous installations worldwide. There is about a 9 month order time and construction would begin accordingly, with the proper site preparation. The tower is built in western Mass by Moss and Berkshire, North Adams. The pieces will be brought in by truck. The sections are 20 x 30’ long and the flanges are located on the inside, so outside the tower is smooth. He presented an aerial photo showing the maximum flickering and shadowing areas (*copy in file*). He noted that 90% of the sweep goes across fields and water. He explained that flicker is the effect of sun moving through a fan.

**Councilor Hardy** asked how many homes flickering will interfere with.

**Mr. Griffin** replied it may affect perhaps 12 homes off of Emerson Avenue only for a few minutes a day, a few weeks per year at any given location and is dependent upon the wind and sun on any given day. From a professional view it is really a non-issue.

**Councilor Hardy** asked if the blades spin and turn.

**Mr. Griffin** replied yes, they turn to maintain one of two speeds and a shutoff above 40 mph.

**Councilor Hardy** asked why you need to place this tower so close to the property line.

**Mr. Griffin** replied the proposed building is taking up the other part of the property. They felt this was a reasonable location for the tower. Gloucester Transit Mix and Keyspan don’t consider it an obstacle; it is 345’ away from any occupied building. It is the ideal location not to interfere with any neighbors.

**No one else spoke in favor.**

**Speaking in opposition.** **Debora Taylor, 2 Griffin Court** has owned her home for 3 years and has concerns of traffic, noise and safety. How does the applicant propose the traffic flow of an additional 250 cars on this site. She also has blasting and drilling concerns and is concerned about the noise level of the wind tower. She would like proof from other residences with wind towers nearby. She asked if there are underground utilities where the drilling would be.

**Questions.** **Patty Pardee, 17 Holly Street** representing Pathways asked to be part of the site visit being proposed and noted there are buildings on the adjacent property not shown and how far away the tower will be located from those buildings.

**Councilor Hardy** asked for clarification if there are existing buildings that are not shown on the map presented.

**Mr. Griffin** replied those buildings are located on the Keyspan property and are not shown on the map because they are very small and are inhabitable.

**Mr. Judd** stated those buildings are close to 300’ away from the proposed tower.

**Ronn Garry, 209 Atlantic Road** asked about the amount of power being generated and fluctuating amounts of wind. Varian will be returning 30% of their electricity generation back to the Grid and will this be a similar situation.

**Mr. Griffin** replied the size of this wind turbine is approximately one-quarter the size of one of the Varian towers, so doesn't estimate as high a return.

**Mr. Garry** stated in thinking about renewable energy this would be an opportunity for the City of Gloucester to take advantage of getting some energy at wholesale.

Councilor Hardy asked a question as it relates to the proposed building.

Attorney Mead replied the building being proposed is allowed by right. We are in the permitting process with the Conservation Commission – there is an order of conditions on the building and has been extended at the request of the Conservation Commission and the applicant because laws regarding storm water and riverfront have changed. The order of conditions was appealed and we are waiting for a superceding order of conditions from DEP. There is no need for an order of conditions on the wind turbine because it is outside the buffer zone.

**Councilor Hardy** asked what would be done with the wind turbine if the building is not constructed.

**Attorney Mead** replied wind turbines are an accessory use and a condition could be placed on the SCP that the wind turbine could not be built unless the building is built. She clarified that the wind generation will be used for this building and will not be sold. She also asked for a three year permit given the lead time for ordering the wind turbine and to finish up the permitting for the building. With regards to concerns voiced about noise; the acoustical report was done on a Saturday when Gloucester Transit Mix was not in operation. We used a conservative method while doing the test during when it was quietest.

**Councilor Hardy** asked how the comment made about an additional 250 cars relates to the wind turbine.

**Attorney Mead** replied it is not related to the wind turbine. The location the road and road reconstruction is permitted in the order of conditions for the building.

**Councilor Hardy** asked if safety plans will be initiated.

**Attorney Mead** replied an operations and maintenance plan will be provided by the contractor of the tower.

**Mr. Griffin** noted Furlander has had no failures with any of their wind turbines. The design against overturnment is more stringent than a 150' tall building. In terms of operations emergency response it is a fully computerized alarmed system that submits a signal to the company that is maintaining it.

**Attorney Mead** stated prior to issuance of a building permit we could provide an emergency operations procedure and at that time we will provide the manufacturer's operation and maintenance plan.

**Councilor Hardy** asked if the base of the tower would be fenced off with any posting of notices.

**Mr. Griffin** feels there is no need to fence it off, as everything is underground and there is a locked steel door at the base of the tower but agreed that after it is built and viewed they would install a fence upon request. He also noted the color of the tower will be an off white.

It is the applicant's responsibility for the legal advertisement. A Site Visit will be scheduled for Saturday, February 9<sup>th</sup> with an alternate (snow) date of 2/16<sup>th</sup>, at 11 a.m. The Balloon Test will also be done at this time and five photographs will be taken from various vantage points throughout the city; from the A. Piatt Andrew Bridge, Stage Fort Park at the basketball courts and from Bellevue Street, the Causeway between the two restaurants and the Heights of Cape Ann.

**The SCP for Dunfudgin, LLC, 33 Emerson Avenue is continued to 2/27.**

#### **4. Gloucester Crossing – street naming and numbering.**

Gloucester Crossing street naming and numbering is continued to 1/30/08 at the request of the applicant's attorney.

5. SCP 2007-23 – Demoulas (Market Basket) 71, 73 & 79 Concord Street – Sec. 5.7 Major Project Shopping Center. (*continue to 2/27/08*).

The applicant's attorney requested a continuance of the Demoulas SCP application to 3/12/08.

6. Requests for Proposals relative to Maplewood School.

**Councilor Hardy** stated she sees no problem with the property being offered once again for sale; she is anxious to get it sold. Her only request is that it be returned to the tax rolls of the City of Gloucester.

**Councilor Devlin** stated there is the possibility of the city taking this back and going through the permit process themselves to increase the value, meeting with neighbors and the historical commission to address their concerns.

**No action was taken on the matter of the RFP for the Maplewood School.**

7. Other Business:

**Councilor Hardy** suggested joint meetings with Planning Board on the Harbor Plan rezoning of The Fort. She would like P&D to be proactive and not reactionary to applications; to focus on future planning for the city.

**Councilor George** noted Griffin Court was accepted by the city as a public street three years ago and all of those businesses were there before Griffin Court was accepted by the city.

**Councilor Hardy** talked about distribution of work on P&D. The Zoning Ordinances Sections I, II and III have been reviewed by the previous P&D and ZORTF and are before the Council awaiting further instruction. She suggested each member of P&D focus on a couple of the special permit criteria to become familiar with those.

**Councilor Devlin** noted he has been filed an order to review the SCP for the Magnolia Woods.

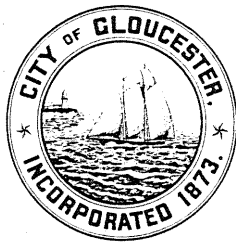
**It was decided amongst the committee members that Councilor George will deal with special permit criteria 1 and 2; Councilor Devlin with 3 and 4 and Councilor Hardy with 5 and 6.**

**It was moved and seconded to adjourn the meeting at 8:20 p.m.**

Respectfully submitted,

June Budrow  
Clerk of Committees

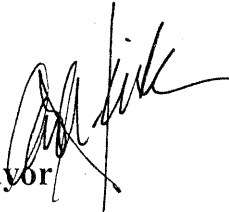
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**CITY OF GLOUCESTER**  
**OFFICE OF THE MAYOR**

**TO:** City Council

**FROM:** Carolyn Kirk, Mayor 

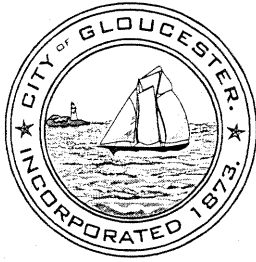
**DATE:** January 17, 2008

**RE:** Addendum to Mayor's Report  
for the January 22, 2008 City Council Meeting

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Attached is a report from Gregg Cademartori, Planning Director, summarizing the Land Disposition Committee's meeting which was held on December 18, 2007. This report was inadvertently omitted from the Mayor's Report.

*Please refer this matter to the Planning and Development subcommittee for review. Gregg Cademartori will be available to answer questions and provide further information as required.*



# CITY OF GLOUCESTER

## PLANNING DEPARTMENT

3 Pond Road, Gloucester, MA 01930  
Tel 978-281-9781 • Fax 978-281-9779

JAN 4 2008

**Date:** January 1, 2008  
**To:** Mayor Kirk  
**From:** Gregg Cademartori, Planning Director *GMC*  
**Re:** Recent Requests to Purchase/Lease/Obtain Easement of City Owned Land

A meeting of the Land Disposition Committee (LDC) was held on December 18, 2007. Each request, related discussion, and recommendation of the LDC is outlined below. In attendance were the following city staff members: Suzanne Egan-Legal Dept., Nancy Ryder-Conservation Dept., Dave Sargent-Shellfish Dept., Gary Johnstone-Assessor's Dept., Max Schenk & Jason Dustin-Health Dept., Mike Hale-Engineering Dept., Bill Sanborn-Building Dept. and Ellen Preston-Planning Dept.

***1. Ralph Hobbs, Request to Purchase 149 & 149R Hesperus Avenue, Assessor's Map 190 Lots 6 & 7.***

The request by Mr. Hobbes is to purchase the referenced land for residential purposes. The property owned by the city is comprised of two lots totaling approximately 2.2 acres of land. The lot fronting on Hesperus Ave contains more than 200' of frontage and the two lots are located in the R-2 zoning district. The land rises to the north from Hesperus Avenue. There are also existing homes on either side of the property.

Health Department staff indicated that surrounding properties appear to have properly functioning septic systems, with appropriate soils for soil absorption fields for the treatment of wastewater. The LDC discussed, that although there may not be too many site constraints to developing the lots for residential purposes, there may be future municipal uses which require further discussion before consideration of the land as surplus. The land behind the lots abutting Hesperus Avenue in this area, is a part of the Magnolia Woods recreational complex. The potential need for the relocation of the municipal composting operation has recently been raised. It was agreed that location and access considerations should be explored before giving up a viable connection to Hesperus Avenue. The lot could also be used for access to a sizable public open space area. It was therefore not recommended to dispose of this land at this time.

***2. John Knowlton, Request to Purchase, 2 Parker Street, Assessor's Map 54 Lot 97.***

This property is displayed on the assessor's map as containing approximately 3,860 sf of land. The lot is currently used for neighborhood parking, and, in part, supports an abutting restaurant use. The lot is zoned MI-marine industrial. Without going into too much discussion of the applicant's intended use of the property, after evaluation of accompanying documentation it was determined that the lot is in fact part of the layout of Parker Street. The lot was the subject of a taking for the layout of the Parker Street at the time of developing the state pier. Land within a road layout cannot be disposed. Therefore, the proposal cannot be entertained.

### *3. Massachusetts Electric Company, Request for Permit, License or Access*

A request was made for temporary access for environmental sampling required by the Massachusetts Contingency Plan 310 CMR 40.000 (letter request attached). The only initial concerns raised were that any equipment, such as well monitors, that would be installed should not do any damage to public property and/or poured concrete surfaces in the area, or create any pedestrian hazards. Correspondence from the DPW director indicated that after discussion with National Grid representatives, it is his understanding that equipment would be flush mounted, if not recessed. No further issues were raised and the request was supported. It is suggested at the Council level that this request be forwarded to the legal department for proper agreement language.

November 8, 2007

Gregg Cademartori  
Planning Director  
City of Gloucester  
3 Rear Pond Road  
Gloucester, MA 01930

RE: Request For Access for Soil and Groundwater Sampling Activities  
Solomon Jacob Park  
Harbor Loop  
Gloucester, MA

Dear Mr. Cademartori:

As you know, Massachusetts Electric Company (MEC) is performing Comprehensive Response Actions in accordance with the Massachusetts Contingency Plan (MCP, 310 CMR 40.0000) at the former Gloucester Manufactured Gas Plant (MGP) Site located on Harbor Loop in Gloucester, Massachusetts. The historical Site boundary of the MGP, as defined by the MCP, includes MEC's property at 19-21 Harbor Loop and a small portion of the City's property referred to as Solomon Jacob Park (Lots 12, 14, 19, 25 on Assessor's Map 9).

MEC is requesting a temporary permit or license from the City of Gloucester to collect soil and groundwater samples from the City's property (Lots 12 and 14). The work would consist of the installation of two (2) small soil borings/monitoring wells (MW-203 and MW-204) for sample collecting near the property line, all as described in more detail in the attached scope of work ("Scope of Work") and shown on the attached figures 2 and 4, which illustrate current site conditions and the property metes and bounds.

As you requested, I have attached the City of Gloucester "Request to Purchase" form (please note that we are not requesting to purchase the property or to obtain any temporary or permanent interest in the property). The Scope of Work and the attached figures are being provided with the form in accordance with Sec. 2-3 of the City of Gloucester's Code of Ordinances.

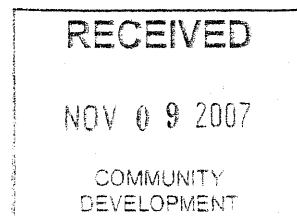
I look forward to continuing to work with the City to implement this project. Please feel free to contact me with any questions or concerns at 508-389-4296.

Sincerely,



Michele V. Leone

cc: Linda Lowe, Esq., City Solicitor, 9 Dale Ave, Gloucester  
Jim Caulkett, City of Gloucester Harbormaster, 19 Harbor Loop, Gloucester  
Megan F.S. Tipper, Esq.  
File





## *Scope of Work*

### Scope

MEC's will install two (2) borings, indicated as MW-203 and MW-204 on the attached Figure 4. The two borings will be completed as groundwater monitoring wells and will be two inches (2") in diameter. As required by law, at least 72 hours prior to initiation of any intrusive field work, MEC will contact Dig Safe Massachusetts to identify utilities (i.e., gas, electric, telephone, cable, water, sewer, etc.) within the public right-of-ways adjacent to the property. If subsurface utilities are encountered at a boring location, the boring will be moved to a new location at least 10 feet from the utility line. Additional borings/monitoring wells may be installed depending upon the subsurface conditions encountered. Discrete soil samples from the borings and two additional surface soil samples (from two other sampling locations) will be collected for laboratory chemical analysis.

Drill cuttings generated during the drilling activities will be temporarily placed on polyethylene sheeting to prevent the potential contamination of pavement. All soil cuttings and development fluids generated during the drilling program will be stored in 55-gallon drums that will be removed from the property at the end of the drilling program.

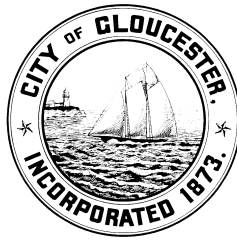
The drilling activities are expected to take three to five days to complete. Upon completion of the borings and installation of the wells, the area around the borings will be regraded to match the existing grade and the property restored to its previous condition, but for the remaining wells which will be completed with a small road box.

After the wells have been installed, they will be developed on a subsequent day. MEC's contractor will come back after one week to obtain samples of groundwater from the wells. The groundwater sampling is anticipated to take one day per sampling round. Thereafter, we will perform a total of four groundwater sampling rounds during the coming year; one sampling round per season in accordance with Massachusetts Department of Environmental Protection guidance documents.

### Reason for Permit/License

MEC is requesting a temporary permit or license from the City to do this work, one that is freely revocable by the City upon reasonable notice, because the work is both minor and temporary. Very little of the City's property will be impacted by the wells, each of which will only impact a two inch (2") wide area, and MEC's total time spent on the property after installation will only be four days over the entire year. It will not in any way change, interfere with or be inconsistent with the use of the property as a park.

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**CITY OF GLOUCESTER**  
**OFFICE OF THE MAYOR**

**TO: City Council**

**FROM: Carolyn A. Kirk, Mayor**

**DATE: January 18, 2008**

**RE: First Round Appointments**

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Dear Councilors:

Thank you for your patience as I work out the rhythms of getting information from the Mayor's office to the City Council in a more timely manner. I submit this addendum of initial appointments to the Mayor's report for your meeting of Jan. 22, 2008 and ask you to refer out to O&A for approval.

**Administrative Assistant to the Mayor - One Year Appointment: Jim Duggan.**

Under the reorganization of the Mayor's office, the new job description for the Administrative Assistant to the Mayor shall include the following: Direct-line management of: Office of Economic Planning and Development; Sawyer Free Library; Veteran's Services; Senior Center; Public Health Dept., and Inspectional Services. In addition, this position shall be responsible for coordination with all Boards and Commissions, city liaison to the School Dept. and any other tasks or duties assigned by the Mayor.

Under the reorganization of the Community Development Department, Mr. Duggan will also serve as Acting Economic Development Director. In this capacity, he will oversee the CDBG grant program, tourism, and other economic development special projects assigned by the Mayor.

Jim Duggan has a Masters Degree in Public Administration from Suffolk University, and a Bachelors of Arts in Political Science from Westfield State College. He has worked for the city of Gloucester in the Grants Dept. since 2004, and has previously worked for the cities of Marlborough, Methuen, and Lowell in various capacities of community and economic development.

I am pleased that Jim has accepted this promotion, and it is my sincere hope that the City Council unanimously approve this appointment.

NOTE: The reorganization plan will be submitted to the City Council. It is my intention to cover the other functions of the Administrative Assistant to the Mayor as per the City Charter through the establishment of a much needed Budget Director position. The creation of this position and its appointee, along with the formal creation of the position of Economic Development Director, will be submitted as part of the reorganization.

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## CITY OF GLOUCESTER OFFICE OF THE MAYOR

### **Chief Finance Officer - One Year Appointment: Anna Tenaglia**

It is with great pleasure and admiration that I submit to you Anna Tenaglia for reappointment to the position of Chief Financial Officer of the City of Gloucester. Anna came on board in the middle of a very difficult software implementation. She brought a focus on the leadership and communication necessary to move departments forward after having been at a standstill with a poorly executed financial application conversion. Anna has been relentless in holding the application provider accountable for the products and services they sold to the City of Gloucester, and brings a calm and professional demeanor to the finance dept. despite the challenges. As we tackle the remaining challenges, I have no doubt about Anna's ability to place the City on the right track for a timely financial closing and subsequent independent audit for this year.

### **General Counsel - One Year Appointment: Leonard Kopelman, Kopelman and Paige, P.C.**

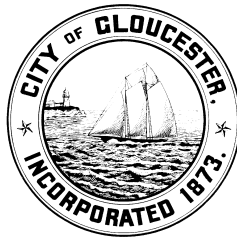
Len Kopelman is the founding partner of the law firm Kopelman and Paige, P.C. Kopelman and Paige, P.C. is the Commonwealth's most experienced municipal law firm providing a full range of legal services to over one-third of the cities and towns in Massachusetts. Client communities include the cities of Woburn, Watertown, Leominster, Amesbury, Newburyport, Braintree, Burlington, Dedham and many others. I have spoken to many of the Mayors from these cities, and Kopelman and Paige, P.C. come very highly recommended.

Reasons I encourage the City Council to accept this appointment include the following:

- **Cost savings.** Currently the city pays for in-house counsel but also uses outside special counsel. Outside special counsel hourly rates are as high as \$400 per hour. Consolidating under one firm with a lower fixed hourly rate is expected to be beneficial to the City.
- **Audit:** The transition to outside Counsel will include, at no charge, a complete assessment of all cases outstanding, along with recommendations for disposition. Once the audit is complete, and there is an understanding of what cases will require legal services, the cost / benefit case will be made on using in-house vs. outside services. At this time there is no identified budget impact, however, once the budget impact is known, and billing activity is anticipated, the proper transfers will be placed before the Council for approval. In addition, there may be some minor changes in the Code of Ordinances for implementing this service model.
- **Transparency.** Detailed bill of services shows exactly what legal expenses are being incurred and for what.
- **Range of Expertise:** Kopelman and Paige, P.C. lawyers specialize in various aspects of municipal law. The specialist in TIF's will provide expertise on TIFs. The specialist in land use will provide expertise in land use and so on. The firm of 58 attorneys, 25 principals, 33 associates, and 5 paralegals are able to specialize on the complex and ever-changing municipal laws governing our city.
- **Preventative Programs:** As a service to its clients, Kopelman and Paige, P.C. will conduct, for no additional charge, training seminars for our City Council, Planning Board and Zoning Board of Appeals for example. A goal of mine is to continuously raise the level of professionalism and knowledge required in these important positions.
- **Flexibility:** Access to the lawyers in the firm can be accomplished in a variety of ways depending on our preference. They will host formal office hours on-site, meet with managers and Dept. Heads as needed for preventative measures, and through e-mail can provide up-to-date expertise across all areas of municipal law.
- **Collective Bargaining Expertise:** As the largest firm serving municipalities in the Commonwealth, Kopelman and Paige bring to bear much expertise in this area which is of significant importance to Gloucester this year.

Please note that this recommendation is no reflection upon the quality and years of service of the city's legal department. My intention here is to introduce to the City of Gloucester a successful alternative model for providing municipal legal services. I am confident that this is the direction Gloucester needs to go, and respectfully ask the City Council to approve this appointment.

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## CITY OF GLOUCESTER OFFICE OF THE MAYOR

### **Civil Defense Director - 90 Day Appointment: Chief Barry McKay**

This is an area that I would like to review for two reasons: reform in the manner in which Civil Defense services are delivered in the City of Gloucester, and building the responsibility and leadership experience of other members of the Gloucester Fire Dept.

### **Community Development Director - 90 Day Appointment: Sarah Buck**

I am pleased to put forward Sarah Buck for the position of Community Development Director. She will lead the planning division of the Community Development Department. Sarah has the education credentials and planning experience necessary to fill this important role. She is an undergraduate of Harvard University, and has her Masters of Public Policy from Tufts University. Most recently she has been a planner with the town of Georgetown, and previously worked for the City of Gloucester in the Grants division.

In addition to her role as Community Development Director, Sarah is designated as the Harbor Plan Coordinator for the City of Gloucester. Most importantly, I believe Sarah has the intangible quality of understanding what type of changes along the waterfront will fit with the identity and authenticity of Gloucester harbor.

### **Personnel Director - One Year Appointment: David Bain**

David Bain is a relative newcomer to the City of Gloucester staff having been in place since September. Already he has been able to establish a more harmonious climate between management and staff. In addition, David is being proactive in the review of whether or not the Commonwealth's Group Insurance Commission will be beneficial to the City of Gloucester. He is also seeking ways to save the city money based on his knowledge and experience working in other cities. Please accept the reappointment of David Bain to Personnel Director.

### **Purchasing Agent - One Year Appointment: Everett Brown**

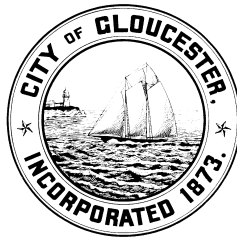
Everett Brown continues to play an essential role in the smooth day-to-day operation of the City of Gloucester. He is a trusted manager who can be relied on to perform duties beyond that of Purchasing Agent, and it is with great respect that I put him forward for reappointment to the position of Purchasing Agent for the City of Gloucester.

### **Building Inspector - One Year Appointment: Bill Sanborn**

Despite cutbacks in staffing, Bill Sanborn continues to provide the City of Gloucester with solid performance as the Building Inspector. Some of his accomplishments from the past year include:

- Developed a web page on the City website for the Zoning Board of Appeals; Zoning Board of Appeals meeting agendas and meeting results are now more available to the public and this has reduced repetitive citizen inquiries.
- Developed new more "user friendly" Zoning Board of Appeals application, which has been in use as of January 1, 2008.
- Increased department revenues for the 5<sup>th</sup> straight year (calendar '07 totaled \$678,358), achieved through thorough permit review, and detection of unpermitted work.
- Reviewed and commented on 29 City Council Special Permit Applications in 2007.
- Continued to work with Fire Chief Barry McKay on installing a new radio fire alarm system in the City. This system will be a revenue source for the City replacing the current outdated costly system.

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## CITY OF GLOUCESTER OFFICE OF THE MAYOR

Please accept the one year appointment of Bill Sanborn as Building Inspector.

### **DPW Director -- 90 Day Appointment: Joe Parisi**

My belief is that the City of Gloucester may need to move in new directions relative to the leadership of the Department of Public Works. However, because of the important services the department performs for the citizens, we need to have a smooth transition to new leadership. Therefore, I recommend the appointment of Joe Parisi for a 90 day appointment.

### **Assessor - 3 year Appointment: Beth Brousseau**

Upon the recommendation of Nancy Papows, immediate supervisor of Beth Brousseau, please accept the three year appointment of Beth Brousseau as Assessor.

In summary, my goals for these appointments are twofold: a) assemble a team of talent that covers the functions that are vital to moving the city forward (such as economic development director, community development director, and budget director); and b) accomplish this in a cost neutral manner for implementation immediately. There is still work to be done in identifying the entire team, and the formal submission of the reorganization, and I will keep the City Council apprised of developments as they occur.